

Court Consolidation in Missouri, Where Are We After 20 Years?

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TABLE OF CONTENTS (Note: Page numbers are changed in electronic format)

| | |
|--|----|
| Acknowledgments | i |
| Table of Contents | ii |
| List of Illustrations | iv |
| List of Appendices | v |
| Abstract | 1 |
| Introduction | 3 |
| Chapter 1: Background and History of Missouri’s Third Branch | 8 |
| Early Courts in Missouri | 8 |
| Non-Partisan Selection of Judges Court Plan | 8 |
| Current Structure of the Judicial Department | 9 |
| Administrative Structure of the Circuit Court..... | 11 |
| Chapter 2: The Missouri Road to Unification | 14 |
| History of Court Reform and Unification | 14 |
| Cosgrove Committee | 14 |
| Judicial Finance Commission..... | 15 |
| Report of the Judicial Article Review Commission..... | 16 |
| The Advisory Commission On the Organization of the Judiciary Department..... | 18 |
| Circuit Court Budget Committee | 19 |
| State of the Judiciary Speeches | 20 |
| Problems in a Non-Consolidated Environment..... | 21 |
| Centralized Filing Courts | 24 |

| | |
|--|-----------|
| Consolidated Courts | 25 |
| Statewide Court Automation-Implications For Consolidation | 25 |
| Chapter 3: Review of Relevant Literature..... | 27 |
| Separation of Powers | 27 |
| Judicial Independence..... | 28 |
| Inherent Powers Doctrine | 29 |
| Roscoe Pound: Public Dissatisfaction With The Administration of Justice..... | 30 |
| Literature on Court Unification..... | 31 |
| What Is Court Unification and Consolidation?..... | 32 |
| Elements of Unification-Statewide | 34 |
| Elements of Consolidation in Trial Courts..... | 35 |
| Why should courts consider consolidation?..... | 36 |
| Why Don't Courts Consolidate? | 37 |
| ABA Standards Relating To Court Organization..... | 40 |
| ABA Standards Relating To Trial Court Courts as Amended..... | 41 |
| Trial Court Performance Standards..... | 42 |
| The California Experience..... | 43 |
| Chapter 4: Approach – Methodology | 45 |
| Chapter 5: Survey Findings..... | 47 |
| Chapter 6: Conclusions | 55 |
| General Recommendations..... | 59 |
| Specific Recommendations | 60 |
| What questions are revealed by this report?..... | 65 |

APPENDICES

LIST OF ILLUSTRATIONS (Note: not all illustrations are in electronic format)

Illustration A: Organizational Chart of the Judiciary 9A

Illustration B: Court of Appeals 10A

Illustration C: Judicial Circuits 10B

Illustration D: Court Administrators 12A

Illustration E: Centralized Filing/Consolidated Courts 25A

Illustration F: Banner Court Status 25B

Illustration G: Chart - Increased flexibility 47A

Illustration H: Chart – Case Management Procedures 50A

Illustration I: Chart – Change Back.....53A

LIST OF APPENDICES: (Note: not all appendices are in electronic format)

Appendix A: Judicial Caseload (FY1999)

Appendix B: List of Centralized Filing Courts

Appendix C: List of Consolidated Courts

Appendix D: List of Courts That Plan to Consolidate

Appendix E: Banner Implementation Schedule

Appendix F: Questionnaire

Appendix G: Questionnaire Cover Letter

Appendix H: Follow-up Letter

Appendix I: Survey Results

ABSTRACT

In 1979, in the State of Missouri, trial court consolidation first became a voluntary option for courts. Since that time 16 counties have consolidated and 8 counties have combined a portion of their operations into a centralized court. There are 115 counties in Missouri. The structure by which these counties have accomplished this process is fragmented and vague. Why have the other counties not pursued consolidation? Is consolidation of courts really successful? What is working and not working in consolidated courts? What direction should Missouri go in relation to consolidation?

The goal of this report was to survey the counties that have consolidated in part or whole and identify what aspects of consolidation are working. It was also important to further identify problems in those processes and develop recommendations for application in Missouri.

A survey was distributed to all 24 counties in the state that have accomplished some level of unification or consolidation. The survey inquired into the areas of how consolidation affected Court staff; Financial Records; Access to the Public; Cost benefits; Equipment savings; Procedural changes; and Judicial staff. All of the respondents to the survey reported that confusion was reduced and communication and cooperation improved. There are several other benefits to courts when they consolidate or centralize. The survey also probed the area of organizational structure and solicited responses about problems arising from court unification or consolidation. Eighty six percent said they would not change back if given the choice and they all said that they would recommend consolidation or centralized filing to other courts. They all said that they thought that consolidation was a better structure than centralized filing.

In the state of Missouri, trial court consolidation does work. Consolidation improves the structure of the courts allowing more flexibility in allocating court staff and judicial staff to areas

with increased caseload; improving the management structure; combining the record systems for better access; centralizing the budget and making operational procedures more uniform. This enables the trial court to be prepared to meet changes that occur. Consolidation should be mandated by legislative action and Supreme Court rule.

INTRODUCTION

In 1976, Article V of the Missouri Constitution was amended changing the administrative structure of the Judiciary. That amendment along with enabling legislation contained many elements of court unification and trial court consolidation in the Judiciary. One of those changes was allowing the Circuit Court to make local rules authorizing the option of “centralized filing procedures for cases”. The concept of court unification or more specifically consolidation of courts has been proposed and adopted in many courts all over the United States. Court consolidation has proven to be more efficient and provides better service to the public in other states where that has been adopted.

What is court consolidation? Since 1979, twenty-four counties have voluntarily enacted rules to “centralize the filing of cases”. The statute specifies cases heard by Circuit Judges in one section and in another section cases heard by Associate Circuit Judges. The statute seems to limit centralized filing within the Circuit Division or within an Associate Division but not together. A strict definition of the statute could bring us to the conclusion that it is only intended for the filing of cases. The Circuit Court Budget Committee and several individual counties have taken a broader interpretation to the statute and completely consolidated the circuit court within a single county.

Of the twenty-four counties, eight are labeled Centralized Filing courts. A centralized filing court is defined as a court organization that has combined most of the divisions of the circuit court in a county; controlled by a single person; with most of the non-statutory staff under a single appointing authority; with most of the court budget in a single budget; controlling most of the financial accounting records and funds; with a single location to access most of the court case records. The other 16 counties are known as Consolidated courts. A consolidated court is

defined as a court organization that has combined all divisions of the circuit court in a county; directed by a single person; with all non-statutory staff under a single appointing authority; with a single budget; controlling all financial accounting records and funds; with a single location to access most of the court case records. It is obvious that the courts are looking much beyond a strict definition of the statute. Why has court consolidation or centralized filing occurred in only 24 of the 115 counties in Missouri? What model have these courts used to develop their own plan to centralize or consolidate? Are these courts structured properly? Do the existing courts need to change their structure? Is there a model court which counties can use when changing? What is court consolidation or centralized filing and how does that change the court? Who benefits when a court consolidates or centralizes? What problems are encountered when a court consolidates or centralizes? What ideas and suggestions can be learned from the courts that have consolidated or centralized? Should courts work toward consolidation or centralized filing? Which one of these structures works the best?

The concept of consolidation is largely misunderstood within Missouri and there exists a significant lack of knowledge and understanding within the judiciary as to what court consolidation does and means. Court consolidation or centralized filing has not occurred at an even pace in Missouri. The most recent interest occurred in 1996 among four counties; four more in 1997; three in 1998; one in 1999 and one county changed from a centralized filing court to a consolidated court in 2000. On January 1, 2001 two counties are scheduled to consolidate and two other counties have committed to change sometime in the future. If counties continue to change at the current rate, it will take over 100 years for all the counties to complete the change.

Early in 1999, 1,826 Americans were asked to express their opinions regarding “the courts in their community” through a national survey funded by The Hearst Corporation. The

survey randomly sampled 1226 Americans, with an over sample of 300 African-Americans and 300 Hispanic-Americans.

In part the survey identified the following concerns. African-Americans express low levels of confidence in the courts in their community, lower than other groups. Nearly 21% of African-Americans strongly disagree that “Court personnel are helpful and courteous”, but only 13% of Hispanics and 12% of White-Americans strongly disagree.

The amount of general trust/confidence in the “courts in your community” is low compared to other public institutions. Indeed only 23% of the participants in the survey report holding a great deal of trust/confidence in the “courts in your community”. Courts ranked sixth out of the eight institutions examined. The Medical Profession ranked highest with 45.4%, Local Police with 42.6%, U.S. Supreme Court with 31.8%, Office of the Governor 30.4%, Public Schools 26.0%, Courts in your community 23.2%, State’s Legislature 17.5%, and Media with 10.4%¹.

When asked “In what manner do courts in your community handle cases?” respondents reported that cases were handled in a poor manner in 10.6% of civil cases, 19.7% of criminal cases, 11.3% of small claims cases, 21.4% of family relations cases and 28.7% of juvenile delinquency cases².

In the area of timeliness of courts, when given the statement “Courts adequately monitor the progress of cases”, 49% responded that they somewhat disagreed or strongly disagreed.

¹ Findings, How the Public Views The State Courts: A 1999 National Survey by the National Center for State Courts funded by The Hearst Corporation, 1999, Page 1

² Findings, How the Public Views The State Courts: A 1999 National Survey by the National Center for State Courts funded by The Hearst Corporation, 1999, Page 2

Further, they responded to the statement that “Cases are not resolved in a timely manner”, 80% saying they strongly agree or somewhat agree³.

The survey shows that the state courts do not have the highest trust and confidence of the public. Shouldn't the judiciary in Missouri do what ever it can to improve its standing? If consolidated or centralized courts are beneficial to the judiciary and the public, shouldn't the judiciary move toward effecting this statewide? Should the judiciary be concerned with meeting the needs of the state and doing it in the most efficient way? In Missouri there have been several commissions and reports, which made recommendations for the improvement of the judiciary since the amendment of the Constitution in 1976. These reports have suggested changes in several areas, some of which are elements of court unification and consolidation.

This report seeks to evaluate the benefits and effectiveness of court consolidation and centralized filing in Missouri. It will also identify who is benefiting from court consolidation. The report will make recommendations concerning the improvement of the process for a court changing to consolidation. The report will evaluate the differences between court consolidation and centralized filing and make a recommendation regarding the preferred system.

A survey was conducted of the Missouri courts that have consolidated or centralized. The respondents were asked to compare segments of their court prior to consolidation versus after consolidation. The areas were court staff, financial records, administrative system, public access to justice, cost benefits, equipment savings, office procedures and judicial staff time. The survey also inquired as to problems encountered as a result of court consolidation. The questionnaire solicited responses regarding suggestions for other courts considering

³ Findings, How the Public Views the State Courts: A 1999 National Survey by the National Center For State Courts funded by The Hearst Corporation, 1999, Page 5

consolidation and if given the option, whether the respondent would prefer to change back to the prior structure.

CHAPTER 1: BACKGROUND AND HISTORY OF MISSOURI'S THIRD BRANCH

Early Courts in Missouri

When Missouri was officially organized as the Missouri Territory in 1812, the judicial power was vested in a superior court, inferior courts and justices of the peace. The Constitution of 1820 established the Supreme Court, chancery courts, and circuit and lower courts. Each of these courts operated independently of the other and the only review was by appeal to a higher court. In the first 30 years of statehood, the judges of the supreme, circuit and chancery courts were appointed by the governor with advice and consent of the Senate. By provision of the 1849 constitution all of the judges were elected.

Non-Partisan Selection of Judges Court Plan

In 1940 Missouri reformed the selection process for Judges of the Court of Appeals and Supreme Court. Judicial positions are filled by a merit selection process through the use a nominating commission and appointment by the Governor. This constitutional amendment (Article V, Section 25) is called the Non-Partisan Selection of Judges Court Plan.

In 1976 the process was amended to include selection of judges in some circuit courts. Judges once appointed to the bench would later be placed on the ballot and submitted to the voters for retention to the office. The amendment prohibited Judges from participating in political activity or taking part in any political campaign.

The next reform occurred in 1945 when the Constitution was rewritten. The court system in Missouri was reorganized to consist of the Supreme Court, Court of Appeals, Circuit Courts, Magistrate Courts and Municipal Courts.

Current Structure of the Judicial Department

In 1979, Article V of the Missouri Constitution was amended and this changed the structure of the judiciary. The Judicial Department is now comprised of three components. The Supreme Court, Court of Appeals and Circuit Courts. (See Illustration A)

The Supreme Court has 7 judges who serve 12-year terms then are appointed by the governor and retained pursuant to the Non-Partisan Court Plan. The Chief Justice is elected by the judges of the Supreme Court for 2-year terms. The jurisdiction of the Supreme Court includes the areas of validity of U.S. treaty or statute, Missouri statute or constitution, revenue laws, title to state office, cases where there is a death sentence, and cases transferred from the Court of Appeals⁴.

The Supreme Court has “general superintending control over all courts and tribunals” in the state⁵. The Supreme Court is authorized to appoint a State Courts Administrator “to aid in the administration of the courts”.⁶ The duties and responsibilities assigned to the state courts administrator are broad in scope and relate to all levels of the state court system. Some of the areas are preparation of the Judicial Department Budget, supervision of all judicial personnel, and authority to make rules governing procedure and administration. According to Article V, Section 5 of the constitution, “the supreme court may establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law”. The rules may be annulled or amended by law. Section 6 gives the court the authority to make “temporary transfers of judicial personnel from one court or district to another”. Section 8 designates the Chief Justice to be “the chief administrative officer of the judicial system...and shall supervise the administration of the courts of this state”.

⁴ Missouri Judicial Report, Missouri Judicial Department Organizational Summary, Fiscal Year 1999

⁵ Constitution of Missouri, Article V, Section 4, Page 8294

The Court of Appeals is comprised of three districts (Western, Eastern and Southern). There are 11 judges in the Western district, 14 judges in Eastern district, and 7 judges in Southern district. The judges have 12 year terms and are retained under the Non-Partisan Court Plan. The jurisdiction of the court of appeals includes all appeals not within the Supreme Courts exclusive jurisdiction and remedial writs. (See Illustration B)

The Circuit Court (trial court) is comprised of 45 circuits with courts in each county. (See Illustration C) There are 135 Circuit judges serving 6-year terms and 175 Associate Circuit Judges serving 4-year terms. There are 331 Municipal Judges with terms designated by the municipality. Additionally, the bench includes 15 Family Court Commissioners, 1 Family Court Referee, 1 Family Court Hearing Officer and 1 Drug Court Commissioner. There are 3 Probate and 3 Deputy Probate Commissioners who have the authority to rule on cases but must be reviewed by a judge for final ruling. Judges in Jackson, Platte, Clay, St. Louis City and St. Louis County are selected and retained by the provisions of the Non-Partisan Court Plan. All other Judges are elected in partisan elections. The Circuit Court jurisdiction is organized in six separate divisions. The Circuit Division has jurisdiction in civil actions over \$25,000, domestic relations, felonies and misdemeanors and trial de novo. The Associate Division has jurisdiction over civil actions under \$25,000, small claims, felonies prior to filing of the information, misdemeanors, traffic and municipal ordinance violations, and handles Circuit Division cases on assignment. The Probate Division has jurisdiction over guardianships, conservatorship, decedents' estates, and mental health proceedings. The Municipal Division has jurisdiction over municipal traffic violations and ordinance violations. The Juvenile Division has jurisdiction over violations of law and status offenses, certification for prosecution as an adult, child abuse and neglect, termination of parental rights and adoptions. The Family Court Division has jurisdiction

⁶ Constitution of Missouri, Article V, Section 4, Page 8294

over domestic relations, adoptions, juvenile, child support, paternity, adult abuse, child protection, change of name and marriage license waiting period waivers. (See Appendix A)

Administrative Structure of the Circuit Court

The administrative structure of the Circuit Courts begins with the Court En Banc composed of the Bench of each judicial circuit. The constitution authorized the circuit court en banc to make rules for the circuit, but only the “circuit judges” of the circuit can make the rules⁷. Section 478.245 RSMo also authorizes the circuit court to adopt local court rules. In this section the circuit court may enter a rule for the “**centralized filing procedures for cases heard by circuit judges**”, and the “**centralized filing or divisional filing of cases**” heard by associate circuit judges. The court en banc functions as a board of directors over each judicial circuit, but there are some areas, which create conflict among the judges. Only a circuit judge can vote on local court rules, while the associate circuit judges are excluded. Circuit judges are compensated more than associate circuit judges and have six-year terms while associate circuit judges have four-year terms. There also is a perceived difference between the judges based on jurisdictional authority and experience. Circuit judges believe that they are superior because they hear more serious and larger cases than associate circuit judges. However in many circuits the associate circuit judges are now assigned to hear the same cases that are heard by circuit judges. As time goes on, the difference between the judges in jurisdictional authority and experience decreases.

Article V, Section 15 of the constitution authorizes the circuit court en banc to elect a Presiding Judge. The presiding judge is selected with a secret ballot by the circuit and associate circuit judges in the circuit for a two-year term⁸. The presiding judge must be a Circuit Judge. In rural circuits there is only one circuit judge, who by default becomes the presiding judge.

⁷ Constitution of Missouri, Article V, Section 15, Page 8297

⁸ Revised Statutes of Missouri, Chapter 478.240, page 7035

According to Section 478.240.2 RSMo the presiding judge of the circuit court “*shall have general administrative authority over all judicial personnel and court officials in the circuit, including the authority to assign any judicial or court personnel anywhere in the circuit, and shall have the authority to assign judges to hear such cases or classes of cases as the presiding judge may designate, and to assign judges to divisions*”. In most circuits the presiding judge assigns classes of cases normally heard by him to the associate circuit judges, but in some circuits the presiding judge does not exercise this authority.

In six judicial circuits there are Court Administrators (16th, 26th, 13th, 28th, 22nd, and the 21st Circuits). The Court Administrator position is not a statutory position except in Jackson County (16), St. Louis County (21) and the City of St. Louis (22). The Court Administrator in some circuits is a state employee while others are county employees. The duties of the court administrator have not been defined and the duties vary greatly from one circuit to another. The position is an appointed position by the court en banc except in St. Louis County. There are no job requirements for the position. (See Illustration D)

The Clerk of the Circuit Court or Circuit Clerk position is a statutory office in each county. The circuit clerk is elected for a term of 4-years and must run for office in partisan elections. The qualifications for circuit clerk are that a person be a citizen of the United States, above the age of twenty-one years, and a resident of the state for at least one year and the county for three months⁹. There are no educational or job experience requirements before a person can be elected to the office. The level of training and expertise among circuit clerks varies. In most instances additional training is required. Circuit Clerks are state employees, being a part of the judiciary. In the smaller counties, the circuit clerks office is combined with the county Recorder

⁹ Missouri Revised Statutes 1994, Section 483.010, page 706

of Deeds. The duties of the Recorder of Deeds is to commit to permanent record land records; mortgages on real and personal property; marriage licenses; military discharge records and other liens. Of the 114 counties, 75 counties have the combined Circuit Clerk and Recorder of Deeds office. In several of the counties the two offices are physically combined.

CHAPTER 2: THE MISSOURI ROAD TO UNIFICATION

History of Court Reform and Unification

Court reform and unification have occurred in Missouri at various times. The changes that have taken place are largely due to the interest of the Missouri Bar Association, the public, the Legislature and the Judiciary. The changes have not always followed a clear pattern or scheme and complete reform is still unrealized. Some of the efforts of court unification are described in this chapter. Missouri has made significant progress in comparison to other states and in comparison to the elements of a unified court system as suggested by the American Bar Association Standards Relating to Court Organization and Standards Relating to Trial Courts.

Cosgrove Committee

In the middle 1970's the Missouri Bar Association commissioned a group of judges, lawyers and others citizens to consider modifications and improvements to the court system. This group called the *Cosgrove Committee* formulated recommendations to change the position of Magistrate judge to Associate Circuit Judge, and require that they be licensed attorneys; to give greater administrative authority to the Supreme Court and Presiding Circuit Judge; to grant administrative authority of the Supreme Court over all the courts; and to authorize the Supreme Court to appoint a State Courts Administrator.

These recommendations were presented to the citizens of Missouri in the form of a proposed constitutional amendment. The amendment to Article V of the constitution was approved on August 3, 1976 and became effective on January 2, 1997. Some of the changes were:

1. The Supreme Court given general superintending control over all courts and tribunals.

2. The Supreme Court to appoint a State Courts Administrator and other staff to aid in the administration of the courts.
3. The Supreme Court given the authority to “establish rules relating to practice, procedure and pleadings for all courts and administrative tribunals, which shall have the force and effect of law”.
4. “The Supreme Court may make temporary transfers of judicial personnel from one court or district to another”.
5. “The Chief Justice of the Supreme Court shall be the chief administrative officer of the judicial system”.
6. Judicial Circuits-“the circuit judges of the circuit may make rules for the circuit not inconsistent with the rules of the supreme court”. “The Presiding judge shall have general administrative authority over the court and its divisions”.
7. Magistrate Judges became Associate Circuit judges and were required to be licensed to practice law.

These amendments to the Constitution dealt mainly with statewide administrative system changes.

Judicial Finance Commission

The next change occurred due to the court entering orders mandating additional funding for court operations. In Missouri there have been several cases in which the court has ordered the county commission to fund the operation of the court. These cases occurred when the court sought to establish the “Inherent Power” of the court and have self-control and independence. In response to the conflicts, the legislature in 1982 created the “Judicial Finance Commission”. Section 477.600 RSMo. established a commission composed of seven people. The commission is

directed to hear petitions (appeals) from county commissions when there is a disagreement over the budget request of the circuit court and the county commission. This process was enacted as a forum to allow for a review of “the reasonableness of the circuit court budget request”. If the commission makes an opinion in favor of the circuit court, the county commission may file a Petition for Review with the Supreme Court for further consideration¹⁰.

Report Of the Judicial Article Review Commission, A Special Commission of the Missouri Bar

In 1989 the President of the Missouri Bar Association commissioned the Judicial Article Review Commission. The Commission was created to review the current judicial article in light of changes that had occurred since 1979. It was to determine if the goals of the judicial article were being met, and to recommend changes to achieve those goals. The President directed the Commission to make a report to the Board of Governors of the Missouri Bar by September 1989.

The Commission was charged with the following duties:

1. To examine ways to make the Judicial Department more efficient;
2. To examine the budget-making process for the Judicial Department;
3. To examine the Juvenile and Family Court systems;
4. To examine the methods of selection of judges;
5. To examine the levels of Judicial Department compensation;
6. To examine the operation and funding of the Public Defender system;
7. To examine the statutes of the physical facilities of the Judicial Department, including evaluation of system needs;

¹⁰ Missouri Revised Statutes, Chapter 477, 1994 Edition, Page 7026

8. To review all other sections of Article V of the Missouri Constitution¹¹;

On August 21, 1989, the Commission reported findings that “....(a) some counties and circuits have judges who are under utilized, and some have a need for more judges and (b) there are enough judges to handle the caseload-they are not in the right locations”¹². They made several recommendations regarding the Circuit Courts some of these are directly related to court unification and establishing more independence and control over the judiciary by the Supreme Court.

1. Establishing a single tier of trial court judges.
2. Implement the Non-Partisan Court Plan statewide.
3. Appointment of Circuit Clerks.
4. Supreme Court to establish time standards for processing cases.
5. Supreme Court to be granted the authority to determine the court costs to be imposed on cases.

In response to this report, on November 24, 1992, the Supreme Court made Court Operating Rule 17 and established *case processing time standards* for civil and criminal cases in the circuit courts¹³.

In 1996, Senate Bill 869 was approved by the Legislature and Governor. SB 869 repealed certain fees and established new fees, miscellaneous charges and surcharges. Senate Bill 869 also authorized the Supreme Court to “*set the amount of court costs authorized by statute, at levels to produce revenue which shall not substantially exceed the total of the*

¹¹ Final Draft, Report Of the Judicial Article Review Commission, A Special Commission of the Missouri Bar, August 21, 1989, Page 2

¹² Final Draft, Report Of the Judicial Article Review Commission, A Special Commission of the Missouri Bar, August 21, 1989, Page 5

¹³ Missouri Supreme Court, Court Operating Rule 17,

*proportion of the costs associated with administration of the judicial system”*¹⁴. This granted the Supreme Court the authority to determine court costs imposed on cases. The Supreme Court entered Court Operating Rule 21, which established the amount of fees to be collected. In 1999, the Rule was modified to implement the “cost simplification” plan for the courts¹⁵.

The Advisory Commission on the Organization of the Judiciary Department

On August 19, 1993, Governor Mel Carnahan ordered that a commission be established to “review, analyze, study, recommend, and report upon the constitutional and statutory provisions relating to the Judicial Department”. This Commission was called The Advisory Commission On the Organization Of the Judicial Department. The Commission was composed of private citizens, judges, attorneys, a circuit clerk, and a former governor.

On December 15, 1995, the Commission made several recommendations some of which are related to court consolidation, efficiency and independence of the judiciary¹⁶.

? Court costs: Special purpose fees should be eliminated and should no longer be established.

? A Justice Center should be established on one of the Judicial Circuits as a prototype for possible adoption throughout the state.

? The salary disparity that exists between Associate Circuit judges and Circuit judges should be substantially reduced.

? Missouri should gradually move to a Statewide system of appointed Circuit Clerks.

In 1994 the Legislature approved the establishment of Regional Jail Districts¹⁷. This is the predecessor of the *Regional Justice Center* concept. In February 1994, a federal grant was

¹⁴ Missouri Revised Statutes, Section 488.012.2.

¹⁵ Missouri Supreme Court, Court Operating Rule, 21, Adopted December 23, 1998,

¹⁶ The Advisory Commission On the Organization Of the Judicial Department, Final Report, December 15, 1995,

Page 1

approved to do a study for the concept of a regional jail in the 28th Judicial Circuit. The study was issued in February 1995, and indicated the concept was feasible, however it did not provide the counties of the 28th Circuit with enough detail to make a decision to move forward. In 1999, funding became available to conduct a study of two multi-county sites for a regional justice center. One aspect of the regional justice center is the possibility of consolidating the courts of several counties into one court operation. The 28th and the 24th Circuits were chosen for the study sites in May 1999. On August 23, 2000, ASAI Architecture the contractor for the study filed their Final Report of the Missouri Justice Center Study. At this time the study is being reviewed and no further action has been taken.

In the Chief Justice's address to The Missouri Bar 2000 meeting he noted that "We appointed a committee to study the building of regional justice centers in rural Missouri with the goal of allowing counties to consolidate detention and court facilities to save scarce resources. This committee's final report will be distributed shortly and promises to be one of the most exciting and innovative projects we have undertaken"¹⁸.

Circuit Court Budget Committee Established Benefits to Encourage Circuit Courts to Consolidate

The Circuit Court Budget Committee is a committee established by the Supreme Court to oversee the budget and related costs of the Circuit Courts. This committee is comprised of Circuit judges and Associate Circuit Judges.

In 1996, the Committee issued the following statement, "The Circuit Court Budget Committee sees the advantages of consolidation in those courts where there is the right combination of people, facilities and resources.... It is anticipated that a few courts (maybe 10 or

¹⁷ Revised Statutes of Missouri, Chapter 221.400

12 counties per year) will be ready to proceed with consolidation”¹⁹. The committee decided to provide financial assistance and resources to the counties, which decided to consolidate or centralize. The committee will assist counties that commit to consolidate with some financial assistance (\$5000 to \$15000) to be used for training, or purchase of equipment, or printed supplies. Additionally they will be given special project assistance and priority assistance for automation. Judges could receive exemption from case transfers. The court will also be eligible for reclassification of some staff positions.

The Committee continues its interest in court consolidation and centralization. It supports counties who desire to follow through with this administrative change. Since 1996, sixteen counties have consolidated or centralized.

State of the Judiciary Speeches

The Missouri Supreme Court has indicated that it supports the concept of appointment of Circuit Clerks, one of the elements of court consolidation. In the State of the Judiciary speech the Chief Justice of the Supreme Court presents to the General Assembly each year at the beginning of the legislative session this topic has been recently mentioned:

January 13, 1999, the Chief Justice tells the Legislature that “Election of circuit clerks no longer suits the needs of the modern judicial system”. He asked the legislature to “make the clerk of each circuit court an appointed position”²⁰.

January 11, 2000, the Chief Justice asks the Legislature to address “the method of appointment of circuit court clerks”²¹.

¹⁸ Chief Justice Address to Missouri Bar 2000 Meeting September 21, 2000.

¹⁹ Frank Conley, Circuit Court Budget Committee, Assistance For Courts Who Voluntarily Consolidate, Page 1

²⁰ Chief Justice, Missouri Supreme Court, State of the Judiciary Speech, January 13, 1999.

²¹ Chief Justice, Missouri Supreme Court, State of the Judiciary Speech, January 11, 2000.

Although legislation to make Circuit Clerks appointed have been introduced in each of the last 3 legislative sessions, none of these bills have been approved.

Even though the Supreme Court has endorsed appointment of Circuit Clerks, there has not been a formal endorsement of consolidation or centralized filing, nor has there been any suggested model court system to give trial courts direction in changing to these systems.

Problems in a Non-Consolidated Environment

There are 89 counties that have not consolidated or centralized. The following areas impact most or all of the counties. The impact may be significant or of a lesser degree.

Budget: In Missouri, most judicial salaries of the circuit courts are funded by the state. The counties are responsible for funding the operational expenses, providing facilities, utilities, equipment and some training expenses. This funding is handled through the annual budgeting process. The budget of each division of the circuit court is separate. That means that in each county, each associate division judge and circuit clerk has a separate budget. The county commission holds budget hearings on each individual office and must compile the budget requests into the total county budget. In effect, each office or division is competing with the others for the resources of the county. When the county commission approves the budget, jealousy and conflict can be created due to one office receiving additional funding over another. Additionally the county commissioners usually have a limited understanding of the functions of the court and may have difficulty in prioritizing funding between the various divisions. When an emergency or unusual situation occurs during the year, each division is limited within its budgeted resources to respond to the financial need. Funds cannot be transferred from one division to another.

Personnel: The State assumed financial responsibility for court personnel salaries in 1979. In response to the transition to state funding, the Supreme Court enacted Court Operating Rule 7. The rule established the Circuit Court Personnel System, a uniform personnel policy, with uniform job descriptions. The responsibility for local administration of the rule rests with the appointing authority in each division of the circuit court. The result of this process is that in each county, the circuit clerk, and each associate circuit judge interprets and administers the rule over their employees in the way that they choose. This creates differences between individual offices regarding how many hours employees work, how sick leave, annual leave, and other leave is administered.

Workload imbalances: The workload of each office varies within the county. If a division has an increase in the number of cases filed, the other offices have no responsibility or authority to assist or help. In small courts when a person is gone on annual leave there may not be anyone trained to continue the work. This causes the work to backup, thereby failing to be completed on a timely basis.

Lack of Training: Training for most court personnel is accomplished through training by coworkers. This type of training is inadequate and does not prepare staff for moving into the future with the increasing complexity of the law and technology. Fortunately there has been much improvement by the state in the past four years in providing training. One critical area of training that is being addressed applies to the Circuit Clerks. Many circuit clerks have no prior experience in the court system or in office administration before being elected. The training provided by the Office of State Courts Administrator is good, but the clerks are not required to attend. The position of circuit clerk is an important one within the circuit courts and more mandatory training is needed.

Public Access to the Courts: Since each division or office is a separate unit, there are sometimes extreme differences in the policies and procedures of each office even though they may process the same type of cases. There are differences in the level of efficiency and the compliance in adhering to laws and timeliness of case processing time standards. When the public contacts the court for information, they are often shuffled from one division to another before they find the proper location. Record systems can vary greatly from one division to another. This is confusing to the public and creates an attitude of distrust and lack of support for the courts.

Office Equipment: Each division or office acts independently of the other in the purchase of equipment. This creates a situation where one office may have a FAX machine and another does not, or one office has a photocopy machine and the other office does not. All the offices may have both machines, but the machines are not utilized efficiently. When purchasing equipment, the level of use in one office may not justify the purchase, even though it is needed. Offices may be required to purchase preprinted forms or other supplies in large quantities even though they may not be used, creating waste.

Financial Records: Each division is responsible for having separate bank accounts and maintaining those accounts. In many small offices where there may be only one or two persons, this creates a situation in which there is no segregation of duties and increases the possibility of misuse or theft of court funds.

Judicial Staff: In the associate division the associate circuit judge is the appointing authority, and chief administrative officer. The primary role of the judge is to adjudicate cases. The administrative responsibilities take away time from hearing and adjudicating cases. In small rural counties the judge is often assigned to hear cases outside the county and may spend

large amounts of time out of county. In high volume courts the judge may have such a large caseload that he may spend all of his time in court. In his absence there may be inadequate supervision over the office. Judges are typically more interested in and skilled in the adjudication of cases. Judges are not usually trained in administrative skills and many times are not interested in the administrative duties of the office, therefore failing to provide adequate supervision.

Political influence: The judges and clerks of the circuit court are elected to their positions and therefore are involved in the political process. The pressure to give special consideration to those persons who voted for or may vote for you in the next election is constant. The court is always in danger of being influenced by politically active persons outside the court. The local county party committee or elected officials may attempt to influence or control the court. Another aspect of politics in the court is when a judge is affiliated with one political party and the clerk is affiliated with another political party. This can cause conflict between the individuals or may create a barrier between them that will prohibit an effective working relationship.

Accountability: The system as it now exists allows for each circuit clerk and judge to operate independent of each other. In many counties there is cooperation between these officials, but in some counties there is no cooperation. In those counties there is often a high level of distrust. A consolidated or centralized court calls for increased cooperation and accountability within the court. Some people resist this accountability.

Centralized Filing Courts

In response to similar conditions across the state, courts have been given the option of becoming centralized filing courts or consolidated courts. Seven counties have changed to centralized filing courts. In general, centralized filing courts have unified most, but not all of the

divisions of the circuit court within their county; and are administered by the circuit clerk. Most of the non-statutory staff is under the supervision of a single appointing authority, usually the circuit clerk. A majority of the divisions of the court is combined into a single budget. The circuit clerk controls most of the financial accounting records and funds. Centralized courts have a single location to access most of the court case records. (See Appendix B)

Consolidated Courts

There are 17 counties that have consolidated courts. In general, a consolidated court has all the divisions of the circuit court in a county administered by the circuit clerk. A single appointing authority, usually the circuit clerk supervises the non-statutory staff. The court has a single combined budget. The circuit clerk has control of all financial accounting records and funds. The court usually has a single location to access most of the court case records. (See Appendix C) (See Illustration E)

In addition to the sixteen existing consolidated courts, Cole County and Jasper County are scheduled to consolidate on January 1, 2001. Miller County and Linn County are planning to consolidate, but no date has been set to accomplish the change. (See Appendix D)

Statewide Court Automation-Implications For Consolidation

In 1994, the State of Missouri embarked upon a plan to install a single statewide automated case management system for the judiciary. Senate Bill 420 approved a \$7.00 court fee to fund the automation project. SCT Corporation's BANNER was selected in 1997 and tested in 1998. It is now installed in 30 county circuit courts; the Supreme Court; the three Courts of Appeals and the Fine Collection Center. (See Illustration F) Installation of Banner will continue in more counties in 2001 with statewide completion scheduled for 2004. (See Appendix E) In addition to case processing, the system allows for public access to court cases via the

Internet. The judiciary is now linked together in a statewide computer network and uses Lotus Notes as a communication tool.

Banner can be used in non-consolidated courts, but there are advantages for consolidated or centralized courts that use Banner. Implementing Banner in courts usually causes a court to reallocate staff from one work area to another. In consolidated courts this shift is not a problem. Banner will handle the financial records of multiple divisions with multiple bank accounts, but a consolidated court would have only one account, this negates the necessity of transferring bonds from one division to another and thereby causes less confusion and errors. Consolidated and centralized courts have more flexibility in sending personnel to Banner training because the staff is cross trained and can be allocated to areas where they are most needed. Consolidated and centralized courts have simpler administrative structures which make the decision easier when determining which staff have access to financial and closed records. Segregation of financial duties can be achieved in smaller courts. Banner requires system default settings to assist in speeding up the processing of cases. In consolidated and centralized courts the default settings will encompass the whole court. In non-consolidated courts, each separate division wants their own default settings, which is difficult or impossible to obtain.

Generally, consolidated and centralized courts can adapt to Banner easier and quicker than other courts. Training of staff has less of an impact on the court and public. A non-consolidated Banner court appears to be seamless, but it will not operate that way.

CHAPTER 3: REVIEW OF RELEVANT LITERATURE

The American governmental system is copied and adapted from the English system. The elements of the legislative branch (House of Commons and House of Lords), the executive branch (King and Prime Minister), and the judicial branch (Courts) were taken from the English. Many of our basic concepts such as the right to vote, the right to self government, the right to elect representatives to govern, come from England. It is these elements that helped form our government.

After the founding fathers wrote the Declaration of Independence, they set about organizing a governmental system. The first system they devised was the Articles of Confederation, which consisted of an elected body responsible for running the government. This body enacted the law and also administered the law but did not have any judicial authority. The Articles lacked the authority to levy taxes, regulate trade and each State had only one vote. The Articles of Confederation was eventually seen as weak and ineffective. This prompted the organizing of the Constitutional Convention in 1787. It was in this convention that our United States Constitution was written with the concept of three branches of government.

There are five legal concepts that undergird the state judicial branch: separation of powers; checks and balances, including judicial review; judicial independence; inherent powers; and judicial federalism²². These legal concepts have shaped and defined the judiciary into what we see today.

Separation of Powers

The legislative branch makes laws, the executive branch applies and enforces laws, and the judicial branch decides how the law should be or should have been applied in specific cases.

²² Robert W. Tobin, Creating The Judicial Branch: The Unfinished Reform, 1999, Page 5

The idea that each branch has checks and balances over the others prevents arbitrary or unlimited exercise of any one power. The judiciary is the weakest of the three branches, unable to make laws and fund itself. It can only act in specific cases. The power of the court lies in its authority to determine whether the other branches acted in conformity to the law or constitution. The doctrine includes two concepts: the concept of functional differentiation (in comparison between the judiciary and the other branches) and the concept of checks and balances (over the other branches)²³.

Judicial Independence

When the constitution was written, it established the concept of a separate judicial branch, but in practice the judiciary was not an independent branch. As an example, until the 1930's the United States Supreme Court did not have its own building but was located in the U.S. Capital Building (legislative branch). The Supreme Court did not have its own staff but was staffed by Justice Department personnel (executive branch). Judicial Independence is the concept asserting that the courts must be independent and free from control of the other branches of government when making decisions of cases. The role of the judiciary is to adjudicate cases in an honest, fair and unbiased manner. Judges must be free from political and financial connections and obligations so the public will see that justice is being done. It is in the budget and funding of the courts that the other branches have the most influence over the judiciary. The judiciary should control its own budget but in many instances the executive branch prepares and or reviews the judicial budget and then controls the expenditures. It is proper for the budget to be appropriated by the legislature so as to have accountability over the judiciary. The Judicial

²³ Carl Baar, Separate but Subservient: Court Budgeting In the American States, 1975, Page 150

Branch should be accountable and exercise responsibility over planning, management and control of the budget.

Inherent Powers Doctrine

Another element of a separate judiciary is the doctrine of Inherent Powers which is founded in the idea that the court must have the power required to administer justice, to protect its dignity, and have independence and integrity to make its lawful actions effective. These powers are inherent in the sense that they exist because the court exists. In order for the courts to operate, they must have the necessary personnel, facilities and equipment to carry out their duties and enforce their orders. In the American system of three branches of government with checks and balances over each other, the courts cannot independently fund themselves and therefore are dependent upon the other branches to provide funding.

In those instances when there is inadequate funding, the courts have taken action to mandate funding by issuing writs to elected and appointed officials requiring the funding. The court has even held those officials in contempt for failing to provide the funding. This doctrine has been used in the federal, state and local courts.

The efforts of the judiciary to establish itself as a separate branch and manage itself have been successful to a degree, but in order for the judiciary to be seen as an equal with the other branches it must acknowledge that it should set its own house in order. Some of the problems that existed in the trial courts were that they were organizationally chaotic, and judges were often unprofessional and unqualified. The local trial courts became involved in politics, which compromised the integrity of the court. Other weaknesses in the trial courts included a haphazard management and lack of uniform procedures; inadequate local funding of the trial courts; inequitable distribution of local resources; the confusing mix of jurisdictional and venue

laws; profusion of separate local courts molded to the whim of local attorneys and politicians; no coherent means of handling appeals from limited jurisdiction trial courts; too many judges untrained in the law and operating without any supervision; a highly political means of choosing judges; no opportunity for judges to receive an initial orientation or to upgrade their skills in training courses; and highly political means of dealing with problems of judicial misbehavior. Basically, state courts were too political, too unprofessional, too immersed in localism, too disorganized, too dominated by lawyers, and too bereft of management from judges or anybody else²⁴.

Roscoe Pound: Public Dissatisfaction With The Administration of Justice

In 1906 Roscoe Pound, the President of the American Bar Association delivered an address to that body in which he charged that the public was dissatisfied with the administration of justice. He said that courts were archaic and their procedures were behind the times. Pound charged the courts with uncertainty, delay and expense, and above all injustice, of deciding cases on mere etiquette of justice and not based on law. He said that the courts were archaic in three respects. First there were too many courts. Their multiplicity created duplication, waste and inefficiency. Second, he argued that concurrent jurisdiction of courts over cases was unnecessary and out of place in modern society. Third, he claimed that there was a great waste of judicial manpower in the system. Pound also was appalled by the seemingly unrestricted practice of granting new trials, especially in civil cases²⁵.

Pound suggested that a new court organization be implemented. The plan was to (1) set up a single court system, (2) with one section of trial court and one court of final appeal. In subsequent speeches Pound observed that there were three main points involved: the

²⁴ Robert W. Tobin, Creating the Judicial Branch: The Unfinished Reform, 1999, Page 21

organization of judicial personnel, the organization of judicial business (court structure), and the organization of judicial administration. He perpetually advocated “unifying” each of these areas.

In response to Pound’s speech, court reform began to occur in the early 1900’s and by the middle of the century the Federal court system and many state courts were making changes. The courts were slow to develop a systematic approach. They were also slow in building an administrative system and building administrative skills within the courts. The prevailing view was that courts were so simple that they function well if judges worked diligently. If management were considered necessary, it would be supplied by the local government. Courts were, therefore, intertwined with often-mediocre administrative processes of local government. The legislature often-enacted laws governing court operations and often with a series of local exceptions in effect micromanaging the courts²⁶.

Literature on Court Unification

In general there are three basic elements of court unification. If there is a single element that might be considered the heart of court unification, it is consolidation and simplification of court structure. Centralized management of the courts is the second element. The third element is Centralized Rule-making by the court. Over time the following elements of court unification have been developed:

1. Rule-making authority vested in the Supreme Court.
2. Assignment power vested in an administrative judge.
3. Simplified court structure.
4. Elimination of justice of the peace courts.
5. State financing of courts.
6. Greater use of judicial councils.
7. Merit selection system for choosing judges.
8. Judicial qualification commissions.

²⁵ Larry Berkson, Susan Carbon, Judy Rosenbaum, Court Unification: History, Politics and Implementation, National Institute Of Law Enforcement And Criminal Justice, August 1978, Page 1

²⁶ Robert W. Tobin, Creating The Judicial Branch: The Unfinished Reform, 1999, Page 57

9. Abolition of lay judges.
10. Use of parajudges.
11. Full-time judges.
12. Mandatory retirement age for judges.
13. Judicial compensation commissions.
14. Appointment of a professional court administrator.
15. Professional administrative staff.
16. Unified bar.
17. Requirements for statistical record keeping.
18. Decriminalization of public drunkenness and minor traffic offenses.
19. Operation under modern rules of criminal and civil procedures.
20. Transcription of all pretrial court proceedings.
21. Uniform appeal procedures.
22. Independent personnel plan for non-judicial employees.²⁷

Many people have explored unification and consolidation and many studies have been conducted on this topic. In general, change in courts was driven by three principle goals:²⁸

1. Court reform, a most common goal for making limited jurisdiction trial courts more professional and bringing them within the administrative supervision of the Supreme Court;
2. Resource allocation, a goal set to achieve more reliable and evenly distributed judicial and non-judicial resources through the mechanism of increased state responsibility for trial court funding; and,
3. Better management, most commonly set goals to assist the introduction of professional managers and to strengthen lines of administrative accountability.

In almost all fifty states some attempts have been made to implement consolidation in various forms with the most recent efforts made in North Dakota, Michigan, Illinois, Connecticut, Maine, and California.

What Is Court Unification and Consolidation?

Dr. Carl Baar, a professor of politics at Brock University, defines court unification as:

“.... a particular type of court reform in which an organization is created where none existed before. Our courts are primarily defined historically either as an individual judge or as an individual organization based in each county. When a court system is unified, it is a merger of individual courts into one entity. The courts and judges will continue to function in much the same way as they did before the system was unified, but unification should result in more

²⁷ Larry Berkson, Susan Carbon, Judy Rosenbaum, Court Unification: History, Politics and Implementation, 1978, Page 2

²⁸ Genesee County Court Coordination Project Report, National Center For State Courts, February 1994, Page 3

efficient operation and should give the individual courts a sense that what they do has meaning beyond their locality and is helping to implement some important values for the state as a whole”²⁹.

Dr. Baar listed three major components of court unification. They are “consolidating or merging of a state’s trial courts; centralizing management of the judicial system at the state level; and providing state financing for trial court operations.”³⁰

The National Municipal League’s Model State Constitution includes a concept of a unified court system. It is (1) uniformity of jurisdiction of each court in all geographic districts of the same court; (2) a single administrative head and organization for the entire system; (3) freedom of assignment of judges at each level; and (4) a single set of rules governing practice and procedure.³¹

In Coordination – Consolidation, Implementing Change In the Court in Kern County, Richard V. Byers, listed five basic tenets of unification:

1. A consolidated and simplified court structure,
2. Centralized state court administration,
3. Rule-making authority in the highest court of the state,
4. A unified budget, and
5. Placing the responsibility of financing the Judicial Branch with the state,³²

A definition of consolidation developed by the Missouri Circuit Court Budget Committee is “all non-statutory state paid positions assigned to the county and funded pursuant to 483.245 RSMo. are under a single appointing authority.”

²⁹ Montana Legislative Council, Court Unification In Montana, A Report to the 49th Legislature Joint Interim Subcommittee No. 3, December 1984, Page 2

³⁰ Montana Legislative Council, Court Unification In Montana, A Report to the 49th Legislature Joint Interim Subcommittee No. 3, December 1984, Page 2

³¹ Ralph N. Kleps, Judicial Council of California, A Report To The Judicial Council on Trial Court Unification In the United States, September 1976, page I

Elements of Unification-Statewide

When Roscoe Pound first spoke of the dissatisfaction of the public regarding the courts he was talking primarily about the overall structure of the courts. He was looking at the courts on a statewide or national basis. The court reform that occurred in the early and middle part of the 20th century was focused at the basic structure of the state courts. The primary reform was the elimination of limited jurisdiction courts and establishing a more simple structure with a Supreme Court, Appeals Court and Trial court. The authority of the Supreme Court was expanded making them responsible for the operation of the judiciary; giving them the ability to assign judges; and make operating and procedural rules. The position of State Court Administrator was established and charged with being the administrative arm of the judiciary. The following elements are those which are most related to changes on a statewide level.

1. Supreme Court having the authority to make rules governing state court system (procedural and operational rules),
2. Chief Justice having the authority to assign judges to cases,
3. Supreme Court having authority to discipline judges,
4. Establishing a single court of appeals to hear all case types,
5. A uniform statewide personnel system,
6. State funding for the judiciary,
7. Unified trial court (one court for all types of cases),
8. Appointed State Courts Administrator with professional staff,
9. Nonpolitical selection of Supreme Court and Appellate Judges,
10. Mandatory judicial education,

³² Richard V. Byers, Coordination-Consolidation, Implementing Change in the Court in Kern County, May 1998, Page 14

11. Mandatory retirement age for judges,
12. Fulltime judges,
13. Elimination of Justice of Peace and lay judges,
14. Simplified court structure,
15. Requirements for statistical record keeping,

Elements of Consolidation in Trial Courts

Court reform efforts are now being focused toward the trial courts. Reasons for trial courts to consolidate are limited funding, complaints from the public regarding inefficiencies of the courts, and confusion regarding which court to go to. The advantages are:

1. Ability to assign judges to cases to meet fluctuating caseload needs, resulting in better allocation of Judges caseload,
2. Ability to assign court staff to meet fluctuating caseload needs,
3. Consolidating and centralizing the administrative control of the trial court,
4. Centralized budgeting, one budget for each trial court,
5. Bench consolidation (all judges are on the same level),
6. The local Bench having the authority to make rules, having one common set of court rules,
7. A combined record system, to assist the public in accessing all court records,
8. Improved management structure by having a clear chain of authority over the combined trial court system,
9. A consolidated and simplified court structure,

Why should courts consider consolidation?

In the Montana report Dr. Carl Baar suggested some of the following reasons for consolidation³³ “that unification often produces uniformity among jurisdictions, enabling citizens to receive equal judicial treatment. In addition, it may increase the independence of the judiciary as an institution while increasing accountability and responsibility among judges. Unification also may lead to the development of an effective system for scheduling cases and for managing judicial workload.”

In the Coordination/Consolidation Study for the Santa Cruz County Courts, conducted by the National Center for State Courts the benefits of consolidation were listed as:³⁴

1. Eliminates duplication of staff functions,
2. Improved facility use,
3. Uses existing technology and equipment more effectively,
4. Eliminates duplication or inconsistencies in records management,
5. Simplifies and reduces the number of court forms,
6. Differing procedural rules are eliminated,
7. Unnecessary case management differences can be eliminated,
8. Needless duplication of work is eliminated,
9. Improvement of court management and efficiency enhances the status of the court with other government entities,
10. Improves budget management and centralized purchasing,
11. Promotes a higher level of management skills in court staff,

³³ Montana Legislative Council, Court Unification In Montana, A Report to the 49th Legislature Joint Interim Subcommittee No. 3, December 1984, Page 2

³⁴ A Coordination/Consolidation Study for the Santa Cruz County Courts, Final Report, National Center For State Courts, Page 5

12. Combining personnel systems reduces conflict and jealousy between court personnel,

13. Improves efficiency in using judges,

Why don't courts consolidate?

The reasons why courts don't consolidate are the same for everyone. Reasons why Missouri courts don't consolidate were identified in a research project in May 2000³⁵. The process of a court consolidating or centralizing in Missouri is optional and the Presiding Judge of the Circuit, the Circuit Clerk and Associate Circuit Judges of the county must all agree to change to a new court system. Until the Legislature or the Supreme Court mandates this process, these reasons will continue to be the most important factors in why courts don't consolidate.

(1) Changes of the Role or Status, Political Struggles: Consolidation causes changes in the status quo and the roles and prestige of many of the participants. An example of this occurs when the Associate Circuit Judge relinquishes his authority to appoint and supervise staff. He will feel loss and miss that type of relationship with those staff over which he was responsible. The staff person, who worked for that Associate Circuit Judge, may also feel a loss and miss the relationship with their previous supervisor. Once a court has consolidated, the chief Associate Division clerk may not have the same authority or control over their work and other staff.

(2) Increased Circuit Clerk Responsibility: The Circuit Clerk is usually designated the sole appointing authority and is given the responsibility over the administrative operation of the consolidated court. The number of non-statutory staff over which the Circuit Clerk is responsible usually doubles. The Circuit Clerk is primarily responsible for accomplishing the process of consolidating the separate divisions into one organization. Once the consolidation is complete the Circuit Clerk is responsible

for the daily operation of the court. The salary of the Circuit Clerk is set by law and there are no provisions for additional pay to the circuit clerk when the court consolidates. Therefore, many Circuit Clerks resist the increased responsibility and work load.

(3) Comfort Zones: Personnel establish comfort levels in the system where they work.

When you change the physical location, work responsibilities, and supervising authority over staff, they are taken out of that comfort zone. The sense of not knowing what will happen in the future, and what these changes mean are sometimes very difficult for staff to accept and adapt to. The process of consolidation must take into consideration helping the staff to see the change in a positive light and thereby accept the change.

(4) Office Layout: Many of the courts are located in courthouses that were built many years ago. These facilities were not designed to accommodate the actual moving of all of the court into one physical location. The courts that consolidate must overcome the physical limitations and utilize all means to make the system work together.

(5) The Step Child Syndrome: In most consolidations, the Circuit Clerk becomes the appointing authority over all staff. The staff of the Associate Division usually has greater fears because they must be accepted and be incorporated into a system that will be designed by the Circuit Clerk. They fear that they will not be given equal status and will not be acknowledged as an equal within the new system.

Other issues that are can be identified that cause courts not to consolidate are:

Uncertainty in Funding of Non-statutory Staff: State funding of non-statutory staff became a reality in 1979. Since that time the legislature has increased the level of

³⁵ Jennifer L. Mikeska, Court Consolidation, Reinventing Missouri State Courts, May 2000, Page 7,

staffing, but current staffing levels are not considered adequate. The Office of State Courts Administrator has requested an additional 61 employees for FY 2002.³⁶ The legislature usually appropriates additional employees when the need has been present for quite sometime prior to the appropriation. Missouri has experienced good financial growth in the past 8 years, but the possibility of a downturn in revenue and subsequent reduction in staffing levels always exists. The processing of child support payments has been transferred from the Circuit Clerks to the Family Support Payment Center. This has caused a significant reduction in the work of the court. The state had previously authorized employees to the courts for this work, and the possibility exists that funding could now be reduced.

Circuit Clerk and Ex-Officio Recorder of Deeds statutory responsibility: In 75 counties of the state the Circuit Clerk is also designated Ex-Officio Recorder Of Deeds pursuant to Chapter 59, Revised Statutes of Missouri. Pursuant to the statute the circuit clerk is the administrator of the Recorder of Deeds office. The responsibility of the Recorder of Deeds is to commit to permanent record various types of records such as, marriage records, land title and mortgage records. The Recorder of Deeds is not related to the operation of the court system and is considered totally a county function. The county is solely responsible for the funding of the Recorders Office. The separation of these offices would be appropriate and is generally not opposed by the Circuit Clerks. The physical location of the recorders office is many times located within the Circuit Clerks office, and in many courthouses there is not adequate space to separate the Recorder's records and operation.

³⁶ Circuit Court Budge Committee, Clerical Weighted Workload report for FY 2002, May 26, 2000.

Selection of the Circuit Clerk: The position of the Circuit Clerk is elected for a four-year term. There have been several bills filed with the intent to change the selection of the Circuit Clerk from an elected to an appointed position. Historically the Circuit Clerks have resisted that proposition. The issue has captured the interest of other county elected officials as well and they usually oppose the removing of an elected position in the county. The public loses a chance to directly select a person charged with administering the court system. The additional concern exists that such an appointed person would not be responsive to the public.

Court unification encompasses the judiciary as a whole and causes change in all aspects of the court. Court unification deals with statewide laws, rules and processes and local trial court rules and structure. On the trial court level the administrative structure of the court must be reconsidered and revised. The American Bar Association has commissioned groups to study and recommend standards for the organization of the courts.

American Bar Association Standards Relating To Court Organization

In 1974 the American Bar Association first approved Standards Relating to Court Organization. These standards were amended in February 1990. The standards serve as recommendations and are to be viewed as standards which courts should strive toward³⁷.

Section 1.10 Unified Court System: A system that is unified in its structure and administration, staffed by competent judges, judicial officers, administrators, and other personnel, that has uniform rules and policies, clear lines of administrative authority, and a sufficient unified budget³⁸.

³⁷ American Bar Association, Standards Relating To Court Organization, 1990 Edition, Page vii

³⁸ Ibid, Page 3

Section 1.20 Competent and Independent Judges: Judges should be selected on the basis of ability, character, training, and experience. Judges should be selected by gubernatorial appointment from nominations made by a judicial nomination commission. Election of judges should be abolished³⁹.

Section 1.30 Rule-making, Policymaking, and Administration: The court system should control its own administrative policies. The Supreme Court should have the authority to promulgate rules of procedure and administrative policy⁴⁰.

Section 1.40 Court Administrative Services: The court system should have administrative services, both centrally and for each court unit in the system⁴¹.

Section 1.50 Court System Financing and Budgeting: State government should assume responsibility for the financial support of state court systems⁴².

Section 1.60 Court Information Systems: A court system should have a state-of-the art automated information system⁴³.

American Bar Association Standards Relating to Trial Courts as Amended

The American Bar Association in 1976 approved the Standards Relating to Trial Courts and subsequently amended the standards 1984⁴⁴. The standards speak to the issues of Procedure and Administration in the Trial Courts. They define the role and duties of the Presiding Judge, Court En Banc, Trial Court Staff Services, and Case Management. These standards include a number of recommendations directly related to the administrative structure. Including Efficient Trial Court Administration, Responsibilities of the Presiding Judge, Committees and Meetings of

³⁹ American Bar Association, Standards Relating To Court Organization, 1990 Edition, Page 46

⁴⁰ Ibid, Page 78

⁴¹ Ibid, Page 88

⁴² Ibid, Page 106

⁴³ Ibid, Page 121

⁴⁴ American Bar Association, Standards Relating To Trial Courts As Amended, 1976 and 1987,

the Court, Trial Court Staff Services, Trial Court Administrative Services, Public Information and Case management.

Trial Court Performance Standards

In August 1987, the National Center For State Courts and the Bureau of Justice Assistance of the U.S. Department of Justice initiated a project to develop a system to measure the performance of state trial courts. The Trial Court Performance Standards' (TCPS) was the product of the project, completed in 1992. The TCPS looks at five key performance areas. They are Access to Justice; Expedition and Timeliness; Equality, Fairness and Integrity; Independence and Accountability; Public Trust and Confidence. These standards represent alternative ways of viewing the fundamental responsibilities or purposes of trial courts, such as providing and appearing to provide individual justice in individual cases; resolving disputes; upholding Federal and State constitutions; working independently of, but in cooperation with, other branches of government; promoting the rule of law; protecting individuals from the arbitrary use of government power; making a formal record of legal proceedings; and encouraging behavior that adheres to societal norms as expressed in statutes, ordinances, and regulations.

Within each area there are standards that further define and clarify that key area. For example, Access to Justice includes Public Proceeding; Safety, Accessibility and Convenience; Effective Participation; Courtesy, Responsiveness and Respect and Affordable Costs. In the area of Expedition and Timeliness is Case Processing; Compliance with Schedules; Prompt Implementation of Law and Procedure. In the area of Equality, Fairness and Integrity is Fair and Reliable Procedures; Juries; Court Decisions and Actions; Clarity; Responsibility For Enforcement; Production And Preservation Of Records. In the area of Independence and Accountability is Independence and Comity; Accountability For Public Resources; Personnel

Practices and Decisions; Public Education; Response to Change. In the area of Public Trust and Confidence is Accessibility; Expeditious, Fair and Reliable Court Functions; Judicial Independence And Integrity⁴⁵.

The TCPS were designed to be used by trial courts as the accepted standard of performance and provides a means of self-assessment to determine if that court is meeting the standard.

The California Experience

In many ways Missouri can be compared to California regarding the process of consolidation of trial courts. California was initially permitted to consolidate/coordinate on a voluntary basis, and just like Missouri not many counties did. In the past 10 years significant changes have occurred in California to bring about court consolidation. As in Missouri, consolidation/coordination has occurred in California on a countywide basis.

In California, the state assembly enacted a series of laws motivated by the lack of funding by the counties and the need to increase coordination of judicial resources. As early as 1988 the state saw the need for additional funding and determined to move the trial courts from being mostly county funded and partially state funded to wholly state funded by appropriating some state funding. By 1991 the state assembly enacted AB 1297 the “Trial Court Realignment and Efficiency Act” which charged the trial courts to develop a plan to increase “coordination” of judicial resources and administrative resources with at least one other court. This was the basis for causing the Superior Courts and Municipal Courts to move toward “unification”.

In 1995 the Judicial Council adopted the California Standards of Judicial Administration, Section 29 & 30, Trial Court Performance Standards. The purpose of the standards was to

⁴⁵ National Center For State Courts, Institute For Court Management, Trial Court Performance Standards, 1989, Pages 29-225

specify the details of coordination and define performance standards for trial courts. They were to be used for comparison and evaluation of the efficiency of the courts.

In 1997 the Lockyer-Isenberg Trial Court Funding Act was passed. The provisions of the act were to: (1) provide stable and consistent funding; (2) promote fiscal responsibility and accountability; (3) acknowledge that the state is primarily responsible for funding; (4) enhance equal public access to justice by eliminating local obstacles. One of the key provisions was the establishment of the Judicial Administration Efficiency and Modernization Fund to promote court unification. The fund is controlled by the Judicial Council and the goal of the fund is to increase public access, efficiency and effectiveness of unified trial courts.

In 1998 the Trial Court Unification act was passed by the state assembly. This act seeks to streamline court processes and Caseflow by eliminating barriers to court unification and provides a way for courts to unify into one superior court organization in each county. As of October 1998, forty-nine of the fifty-eight trial court systems (counties) had voted to unify.⁴⁶ Now all 58 counties have consolidated the trial court jurisdiction.⁴⁷

The statewide completion of consolidation/coordination of the trial courts in California would not have been as successful if it were not for the action taken by the Legislature and the Judicial Council. If Missouri is to accomplish consolidation on a statewide basis, it may take a comparable effort and action by the Legislature and Supreme Court.

⁴⁶ Kim Turner, California Trial Courts: Administrative Implementation of Changes In Intergovernmental Relations Defined in the Lockyer-Isenberg Trial Court Funding Act of 1997, May 1999, Page 40

⁴⁷ California Courts Web site, www.courtinfo.ca.gov/reference/guide.htm Guide to California Courts,

CHAPTER 4: APPROACH-METHODOLOGY

A review of possible research designs was conducted considering the dependability, stability, consistency, predictability, and accuracy of the various designs. The questionnaire method was chosen as it seemed the most practical since the respondents are located in 24 counties all over the State of Missouri. The Observation or Interviewing method was determined inefficient as a means to obtain the necessary information. Observation or Interviewing is also more subjective and allows for possible bias on the interviewers part. The questionnaire method is also a more anonymous method for collecting responses and increases the reliability of the data collected.

A two page written questionnaire was prepared to collect information regarding the experience and attitude of the respondent courts. The respondents were not asked to identify themselves individually but were asked to identify the county where their court is located. Most of the questions required a YES or NO answer. There were additional open-ended questions, which solicited narrative responses about problems that were experienced. The questionnaire was divided into five sections. The first section gave definitions of Consolidated and Centralized filing courts. This was used to aid the respondent in answering the questions. The second section asked the respondent to compare key areas within his court prior to consolidation and after consolidation. The third section asked questions about the administrative structure of the court after changing to consolidation or centralized filing. The fourth section asked for narrative answers to questions regarding the respondent's experience of problems since his court has changed. The fifth section consisted of three follow up questions asking whether the respondent would change back to the prior system if given a choice, whether he would recommend consolidation or centralized filing to other courts and the preferred system.

The questionnaire was pretested by asking nine Circuit Clerks of the subject courts to review it for clarity and understandability⁴⁸.

The questionnaire was modified after pre-testing. Changes were made to the wording of questions in the areas of Cost Benefits, Equipment Savings, and Procedures. Definitions were added to the document to assist the respondent in determining the correct form of their court structure. Minor modifications were made to the organization of the document. The follow up questions were added to the document. (See Appendix F)

The questionnaire was mailed to those courts that have consolidated or centralized their court system. The Office of State Courts Administrator of Missouri identified these 24 counties in October, 2000. Enclosed with the questionnaire was a cover letter and a self addressed stamped envelope for the respondent to return the completed questionnaire. The cover letter asked the respondent to complete the questionnaire and return it by mail by October 27, 2000. (See Appendix G) By November 4, 2000, 14 completed questionnaire forms had been returned. A second request letter was mailed to the counties which had not responded, included with the letter was a copy of the questionnaire and a self addressed stamped envelope for return of the questionnaire. (See Appendix H) By November 24, 2000, 17 questionnaires had been returned (14 from consolidated courts and 3 from centralized courts). Two others provided telephone responses. One of those respondents said he did not want to respond in written form because he feared that his answers would become public knowledge and might create a conflict within his court. The other indicated that no current staff member was employed by the court when the change occurred and, therefore, he could not answer any questions.

⁴⁸ This occurred while attending the annual meeting of the Circuit Clerk & Records Association in September 2000.

CHAPTER 5: SURVEY FINDINGS

The questionnaires were counted, reviewed and sorted into responses from consolidated courts (14) and from centralized filing courts (3).

As noted previously, the questionnaire form was organized into five sections. The first section included definitions of consolidated courts and centralized filing courts. This was provided to the respondents to aid them in answering the questions. The second section asked the respondent to compare his court's experiences prior to and after changing to consolidated or centralized filing. The third section asked questions about the administrative structure of the court after the change. The fourth section asked questions (including some requiring narrative responses) about problems experienced by the court and suggestions for courts considering a change. The final section asked the respondent his opinion about whether he would prefer the prior system, whether he would recommend consolidation and centralized filing to other courts and which model provides the preferred structure. (See Appendix I)

The second section asked questions about Court Staff, Financial Records, Court System, Public Access to Justice, Cost Benefits, Equipment Savings, Procedures, and Judge utilization.

In the area of Court staff, there were three questions. The first question asked if there was increased flexibility to allocate personnel to areas of greater need. (See Illustration G) The second question inquired about opportunities to develop specialized or expert staff. The third question asked whether they could use cross training to cover all work areas. In all three questions, 94% of the courts responded yes.

Table 1

1. Is there increased flexibility to allocate personnel to areas of greater need?

Total: Yes: 16 (94%) No: 1 (6%)

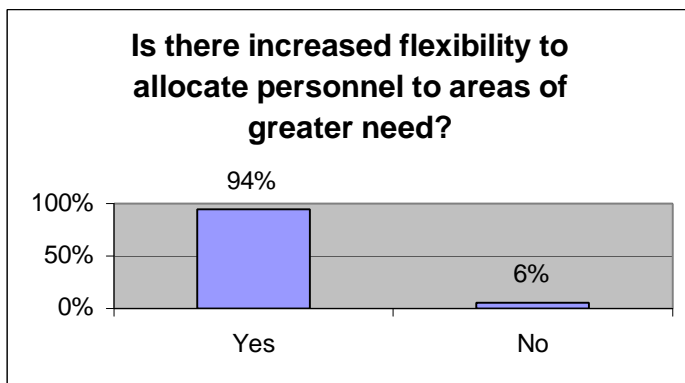
2. Are there opportunities to develop specialized or expert staff?

Total: Yes: 16 (94%) No: 1 (6%)

3. Are there cross training of personnel to cover work areas while staff is gone due to sickness or annual leave?

Total: Yes: 16 (94%)

No: 1 (6%)



In the area of Financial Records there were two questions. The first question asked if increased segregation of duties was achieved. Fourteen courts (79%) responded affirmatively and three (21%) said no. The respondents were asked if they were able to reduce the number of bank accounts. The majority of the counties (71%) said they were able to reduce the number of bank accounts.

In the Court System area, there were five questions. The first question asked whether conflict and confusion was reduced. The courts overwhelmingly (88%) said that there was a reduction. Some (94 %) of the courts said that there was an improvement in communication within the court and 100% reported improvement in cooperation within the court. The respondents modified their answers with comments such as “it took awhile” and “after a period of time” and “in the long run”. When asked about timesavings due to combined court records and indexes, 94% said they did experience timesavings. The final question asked if personnel policies were more uniformly applied to court staff. Almost all respondents (93%) said that personnel policies were more uniformly applied.

Table 2

Was there improvement in cooperation within the court?

Total: Yes: 14 (100%) No: 0

The area of Public Access To Justice was the next to be surveyed. There were five questions. Two questions asked about improved physical access to the court and the ONE-STOP location of the court. Altogether 71% of the courts said they had improved the physical access and 82% said they had achieved a ONE-STOP location for the public to access court information. Eighty two percent of the courts said they have a ONE-STOP telephone number to access court information. Another question asked if misfiling of pleadings had decreased and 94% of the courts said that they had. The final question asked if public trust and confidence in the court had increased. Again, 87% of the courts believe that trust and confidence have increased. All of the centralized courts believe that trust and confidence have increased.

The next area was Cost Benefits to the courts. The first three questions inquired about court bank accounts. First, 79% of the courts said interest income increased. Second, 69% said that bank service charges were reduced. Another 44% said they received increased services from the bank, while 56% said they did not receive increased services. Question four asked if the courts were able to save money when purchasing supplies. Fully 75% said they did in fact save money by being able to purchase supplies in larger quantities. Some (73%) said they could reduce waste by purchasing more usable amounts of printed forms.

Table 3

Were you able to purchase supplies in larger quantities and save money?

Total: Yes: 12 (75%) No: 4 (25%)

If yes, how much money was saved? 25% to 40%; thousands, approximately \$5000,

Equipment Savings was the next area of interest. The first and second questions asked if the court saved money by not being required to purchase duplicate equipment and were able to

utilize equipment more completely. 81% said yes to the first question and 88% said yes to the second. All Centralized courts answered yes to these questions. The last question asked if floor space and facilities were utilized more efficiently: 88% said that they did utilize the space and facilities more efficiently. All of the centralized courts agreed that they were.

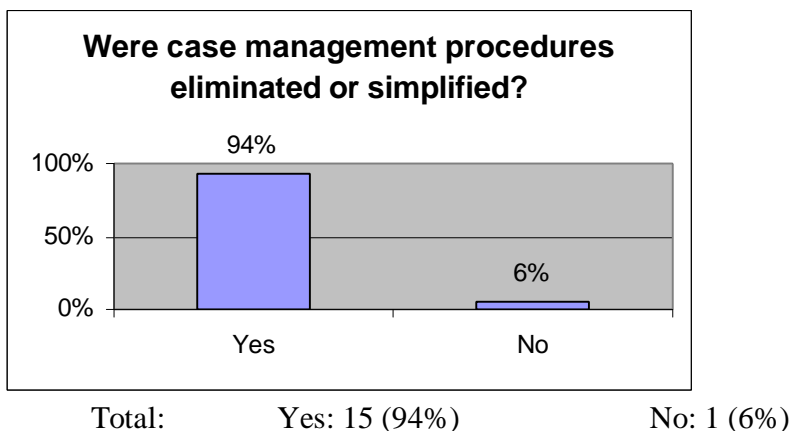
Office and Case management Procedures was the next area. The first question asked if office procedures were simplified or eliminated. 94% of the courts responded yes to that question. When asking whether case management procedures were simplified or eliminated, 94% said that they had simplified or eliminated procedures. The next question asked about improvement in compliance with time schedules by the court. 69% said they did increase, 31% said that they saw no increase. 81% of the courts said they saw improvement in adhering to laws, procedures and policies. (See Illustration H) In the last question, 87% of the courts said they saw improvement in the timeliness of case processing.

Table 4

Were office procedures eliminated or simplified?

Total: Yes: 15 (94%) No: 1 (6%)

Were case management procedures eliminated or simplified?



Efficient utilization of Judges time was the next area. The courts (79%) said that consolidation or centralized filing enables judges to give more attention and time to adjudication of cases. When asked if judges had been able to expeditiously conduct adjudication of cases, 71% responded with yes.

The third section of the questionnaire asked questions about the administrative structure of the respective courts. The courts were asked who is responsible for preparing the court budget for the county, and 79% of the Consolidated courts reported the Circuit Clerk prepared the budget. Two of the Centralized filing courts said that the Circuit Clerk prepared the budget while the Presiding Judge and Circuit Clerk and Probate Clerk prepared the budget in the other. When asked if there is more than one appointing authority in the county, two of the centralized filing courts responded yes, while the consolidated courts mostly (86%) responded yes. The consolidated courts reported that the Circuit Clerk was the appointing authority for 79% of them. The Presiding Judge, Associate Circuit Judge, and Probate Judge as also appointing authorities for the others. The question, which asked if there is more than one trustee of court funds in the county, found 100% of the counties responding no. The Circuit Clerk is the only trustee in 94% of the counties. The Presiding Judge and Circuit Clerk together is the trustee for court funds in one centralized court.

Table 5

Is there more than on trustee of court funds in the county?

| | | |
|--------|--------|--------|
| Total: | Yes: 0 | No: 14 |
|--------|--------|--------|

The fourth section asked questions about problems the courts had experienced that are related to court consolidation or centralized filing. The respondents answered the questions in a narrative form.

The area of Personnel problems received 12 responses. The responses were mostly positive and generally stated that there were some problems immediately after the change, but those have gradually resolved over time. The situations referred to are common to those seen during any type of change.

The next area was intervention by judges into management decisions. Eleven courts responded to this question. The responses were mostly positive indicating that with communication between the Clerk and the judges there is less conflict. In two courts this is a problem and has created some conflict between the Clerk and judges.

The question asking about confusion regarding the division of responsibility between judges and court clerks received 8 responses. The majority of the response (7) were positive. They reported that there might have been some confusion at first, but that has been resolved. Others reported that some of the judges were happy to relinquish responsibility. One court reported difficulties in the area of budgeting between the clerk and the judge.

The question asking whether the Circuit Clerk was included in decision making received 5 responses. The responses were mostly (4) positive. They indicated that the clerk was included in decisions. One responded that the Court En Banc did not include the clerk in decisions.

When asked if there were judicial demands for use of court staff for activities not connected to the administration of justice, four responses were recorded. Three respondents reported that this does occur. One court reported that it is not a problem.

The question inquiring about the need for training for the Court Clerk and management staff received nine responses. Eight respondents voiced the need for more cross training and

management training for the Court Clerk and management staff. One court said the training was satisfactory.

The catch all question asking for other problems received seven responses. Two courts reported that they had difficulty determining staff workload. One court reported that it takes time for people to adjust to the change. One court reported difficulty with the physical location of the office. One court reported difficulty dealing with staff turnover. One court said, “judges take control of staff when everything is running well. If mistakes are made, judges have no control of staff.”

The question soliciting suggestions for other courts considering consolidation or centralized filing received nine responses. They included:

“Having an in depth understanding of both definitions by all parties. Upon agreement, put your plan in writing and have all party’s sign off”.

“Do it ASAP. Simplifies everything. It’s hard to remember we haven’t always been consolidated!”

“For more than 20 years our court was centralized with 36+ employees. The Probate Division was the only division separate. Since the consolidation of probate, the addition of 4 new employees, we are much more unified. Prior to consolidation, the probate staff we left out of the loop for communication (i.e. the probate clerk was not included in my supervisor staff meetings to learn of new policies, training programs, etc.) Under the consolidation structure, the communication is much better.”

“Take it easy – be patient – evaluate existing personnel and their capabilities – fit people together, who can work closely together well – don’t expect perfection from day one – be willing to “bend” along the way.”

“Consolidation may not be for all counties. It depends on their size and their circumstance.”

“Educate the local bar and public. Attend team building training. Get all staff into the same physical location if possible.”

“If at all possible you should be physically located in one office. Communication before, during and after the change to consolidation is very important. People need to know what is going on. This is not easy, especially when you are not located together. We changed over to open shelf filing and have found this to be a very good system.”

“Consolidation makes the court more efficient in handling cases thru the general public eye. Time is saved, work continues if a clerk is gone, communication and a plan are vital for consolidation to work.”

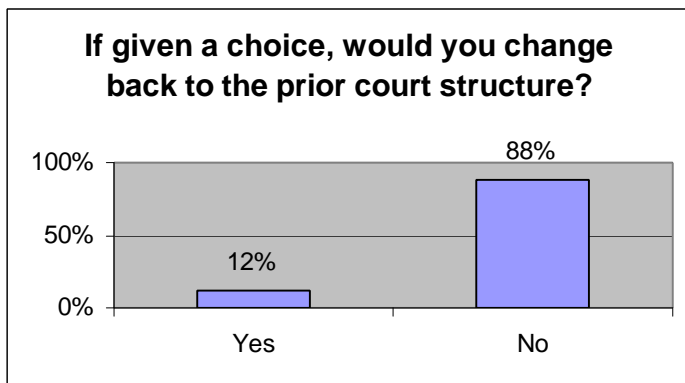
“I would suggest that job duties be assigned to all staff before the change is made so that the staff stays focused. By being centralized, this has helped the public and the attorneys save time and money.”

The final section consisted of three follow up questions. The first question asked the respondent if given a choice, would he change to the prior court structure and 86% said that they would not. (See Illustration I) The second question asked the respondent whether he would recommend consolidation or centralized filing to other courts. All of the respondents said that they would recommend consolidation or centralized filing to other courts. The last question asked the respondent which structure he thought was better. All of those responding including the centralized filing courts said they thought consolidation was a better court structure. The respondent’s comments were:

Table 6

1. If given the choice, would you change back to the prior court structure?

Total: Yes: 2 (12%) No: 15 (88%)



2. Would you recommend consolidation and centralized filing to other courts?

Total: Yes: 16 (100%) No: 0

3. Which court structure do you think is better?

Total: Consolidation: 11 (100%) Centralized Filing: 0

? “only have information and knowledge as to consolidated courts”,

? “depends on the individual court and if the judges are willing to give up personnel authority to the appointing authority”.

CHAPTER 6: CONCLUSIONS

In reviewing the results of the questionnaire, several conclusions can be drawn regarding the success of consolidation and centralized filing courts. The courts that have consolidated or centralized have reported the same results as courts that have unified in other states.

1. Courts that are consolidated or centralized have increased flexibility in the allocation of staff, they can also develop specialized staff or experts and use cross training to provide better service.
2. Courts that are consolidated or centralized can increase segregation of duties, thereby safeguarding against the misuse of court funds. Some courts can reduce the number of bank accounts and thereby save time reconciling the accounts.
3. Courts that are consolidated or centralized reduce confusion and conflict among staff. Communication and cooperation is improved. Combining court records and indexes saves court staff time. Personnel policies are more uniformly applied in consolidated and centralized courts. This benefits the staff and improves the level of service provided to the public.
4. Courts that are consolidated or centralized improve public access to the court. This is accomplished by having a ONE STOP physical access and ONE STOP telephone access. Confusion and misfiling of pleadings by attorneys is reduced. The public has increased trust and confidence in the courts.
5. Courts that are consolidated or centralized can realize financial benefits by increasing the amount of “interest income”. Bank service charges may be reduced and/or the amount of services provided by the bank may increase. The court may save money by being able to purchase supplies in more usable amounts and make purchases in larger quantities.

6. Courts that are consolidated or centralized save money by not buying duplicate equipment and can more completely utilize equipment. Office space and other facilities can be utilized more efficiently.
7. Courts that are consolidated or centralized can simplify and eliminate some office procedures and case management procedures. Compliance with time schedules, adhering to laws, procedures and policies is improved. Timeliness of case processing is improved. Courts that are consolidated or centralized enable Judges to give more attention to and speed up the adjudication of cases.

Additionally, some general patterns can be seen in the responses to questions about court structure:

1. The Circuit Clerk is usually responsible for preparing the budget for the court.
2. The Circuit Clerk is the appointing authority for court staff, excluding the Presiding Judges secretary, Court Administrator and juvenile court staff.
3. The Circuit Clerk is always the trustee for all court funds.
4. No two courts are identical even if they are located within the same circuit. Consolidation allows for individual differences taking into account local practice, culture and physical limitations.
5. The consolidation always encompasses the divisions within a single county.

Generally speaking, in consolidated or centralized courts:

1. Resistance by staff to the change will decrease after a period of time.
2. There is little interference by Judges in management decisions, but communication between the Circuit Clerk and the Judge is very important.

3. There is very little confusion regarding areas of responsibility between the Circuit Clerk and Judges.
4. Decisions made by the Court En Banc most often include the Circuit Clerk. In some courts the Circuit Clerk attends the Court En Banc meetings.
5. The use of court staff by Judges for personal business does happen, but is not seen as a big problem.
6. Training is necessary prior to and after a court consolidates or centralizes. Cross training of staff is very important. The Circuit Clerk usually needs training in the area of management and administration.
7. Several of the problems or conflicts that have occurred in the courts are due to the lack of a well defined plan which clearly states the areas of responsibility and authority between the Circuit Clerk and Judges.

Courts that are considering consolidation or centralized filing should:

1. Have a clear written agreement between the Judges and the Circuit Clerk defining the areas of responsibility and authority.
2. Develop a plan for accomplishing the change and then follow it to completion.
3. Communicate with all the people who are affected by the change.
4. Utilize team building and training.

When respondents were asked three follow up questions:

1. Most said they would not change back to the prior system if given a choice.
2. All said that they would recommend to other courts, changing to a consolidated or centralized filing court.

3. They thought that a consolidated court structure was better than the centralized filing structure.

General Recommendations

1. The Supreme Court should define their vision of where the court system of Missouri should be going. They should develop a model trial court structure. The absence of a model allows for many different variations, some of which are not efficient nor allow for good administration.
2. Each judicial circuit should have a Trial Court Administrator. The trial court administrator should be appointed by the Circuit Court En banc and work under the direction of the Presiding Judge. The trial court administrator position should be subject to Court Operating Rule 7.
3. Election of the Circuit Clerk should be abolished. The position should be filled by appointment of the Circuit Court En banc. The Circuit Clerk position should be subject to Court Operating Rule 7. Current Circuit Clerks should be grandfathered into the appointed position.
4. The Recorder of Deeds office should be separated from the Circuit Clerk.
5. Court consolidation should be required in all circuit courts of each county. The salary of the Circuit Clerk should be increased to be commensurate with the additional duties.
6. Modify the scope and role of the Court En banc, membership should include the Circuit Judges, Associate Circuit Judges and Commissioners, each having one vote per person. All members should be voting members for all issues.
7. Define the authority, scope and role of the Presiding Circuit Judge. The position and leadership role of the Presiding Judge is very important and directly related to the administration of the circuit court.

Specific Recommendations

Circuit Court En banc: The Circuit Court En banc is the administrative body of each judicial circuit court. The court en banc has the authority to:

1. Establish policy for the circuit court pursuant to 478.240.2 RSMo.,
2. Make local court rules for the circuit court pursuant to Article V, Section 15, of the Constitution, and 478.245 RSMo.,
3. Elect the Presiding judge pursuant to Article V, Section 15, of the Constitution, and 478.240 RSMo.,
4. Review of Appeals of court staff grievances pursuant to Court Operating Rule 7,
5. Open to Public pursuant to 610 RSMo.

The court en banc should have the authority to:

1. Designate the Associate Circuit Judges and Commissioners as full members with the right to vote in all matters.
2. Appoint the Trial Court Administrator and Circuit Clerk (consent and approval),
3. Designate the Circuit Clerk as a non-voting member,
4. Designate the Trial Court Administrator as a non-voting member,

Presiding Judge: A member and leader of the Court En banc. The Presiding Judge has the authority to:

1. Assign judicial and non-judicial personnel pursuant to 478.240.2 RSMo.
2. Provide leadership and vision to the circuit court pursuant to 478.240.2 RSMo.,
3. Preside over En banc meetings (quarterly, monthly or twice a year) (maintain the support of the bench) pursuant to 478.240 RSMo.,
4. Generally supervise financial affairs pursuant to 478.240.2 RSMo.

5. Ensure that the court complies with statewide administrative and procedural rules pursuant to 478.240.2 RSMo.,
6. Provide leadership for Casflow management pursuant to 478.240.2 RSMo.,
7. Appeal court staff grievance decision of Appointing Authority pursuant to Court Operating Rule 7,
8. Adjudicate cases pursuant to Article V, Section 14 of the Constitution,
9. Oversee and approve the circuit court budget pursuant to 50.640 RSMo. Represent the circuit court in a proceeding before the Judicial Finance Commission pursuant to 50.640 RSMo.,

The Presiding judge has the implied responsibility and should have the authority to:

1. Work directly with the Trial Court Administrator,
2. Devote time to administration, (20 % of time),
3. Confront members of the bench when they display poor demeanor, their personal behavior effects their work or have poor work habits (provide accountability),
4. Recommend to Court En Banc persons for the position of Trial Court Administrator and other positions,
5. Speak for the Bench to the bar association, public, and other branches of government,
6. Provide informal leadership to the bar (i.e. invite members of bar to annual meetings, promote collegiality and communication),
7. Provide leadership to the whole criminal justice system,
8. Provide to public information and education (programs of the court, inform public of changes in court system),

9. Maintain Judicial Independence by taking action to prohibit encroachment over court operations by other government officials. Holding the court to a high standard of behavior and responsibility thereby earning respect of the public and other government agencies,
10. Maintain the dignity and authority of the court,

Judges and Commissioners Authority: should be:

1. Adjudication of cases,
2. A member of the Court En banc,

Trial Court Administrator: This position is the chief administrative position of the Judicial Circuit. The Trial Court Administrator would be under the direct authority of the Presiding Judge. The Trial Court Administrator should have the authority to:

1. Compile the Circuit-wide court budget and present the budget request to the County Commissions pursuant to 50.642 RSMo,
2. Serve as interagency coordinator, liaison with local government,
3. Anticipate change and respond to it appropriately,
4. Oversee personnel practices and decisions (uses fair employment practices),
5. Conduct planning and statistical analysis over the court,
6. Look for technological solutions,
7. Oversee court reporters, interpreters, juvenile court staff, and court security staff,
8. Review laws, rules and policies for direction,
9. Provide Court Clerk oversight,
10. Participate in the development and implementation of policy,
11. Monitor case flow and time standard compliance,

12. Act as the Secretariat for Court En banc meetings,
13. Set the administrative agenda,
14. Carry out other duties as directed by the Presiding Judge and Court En Banc,

Circuit Clerk: The Circuit Clerk is the chief clerk of the court within a county. When the court is a consolidated court, the Circuit Clerk would be under the direct supervision of the Trial Court Administrator. The Circuit Clerk would have authority and responsibility over the following areas:

1. Case processing (case flow management),
2. Calendar management,
3. Records management,
4. Trustee of court funds and responsible for the financial management of court funds and accounts receivable,
5. Preparing the circuit court budget request and submitting it to the Presiding Judge for approval pursuant to 50.640 RSMo. Presenting the budget to the County Budget officer pursuant to 50.642 RSMo.
6. Jury management, selection, empanelling and organizing,
7. Court support staff,
8. Monitoring cases for compliance with court orders,
9. Approving the purchasing of supplies and equipment,
10. Training of court staff,
11. Inventory control,
12. Appointing authority of court personnel and responsible for personnel management,

Administrative Operations Committee: The membership of this committee should be comprised of the Presiding Judge, Trial Court Administrator and Circuit Clerks of the Judicial Circuit. This committee should meet on a monthly or quarterly basis. The role of the committee is to:

1. Facilitate communication within the court,
2. Assist the Presiding Judge in resolving case assignment problems,
3. Make decisions regarding interpretation of policy, carry out policy,
4. Suggest modifications or additions to local court rules,

Communication and Decision Making Process:

1. Presiding Judge requires all communication be channeled through the Trial Court Administrator,
2. Presiding Judge and Trial Court Administrator have regular meetings,
3. Decisions regarding staff allocation is made by Presiding Judge and Trial Court Administrator.
4. Presiding Judge and Trial Court Administrator must work together, if they don't, no great improvements can occur,
5. Having a Trial Court Administrator and strong Presiding Judge will focus the responsibility, authority and accountability to one executive officer,

Work Groups: Special work groups organized to accomplish a specific task.

1. Established by Presiding Judge and Trial Court Administrator.
2. Membership from court staff, judicial staff and other agencies as needed,
3. The Chairman is selected by Presiding Judge and Trial Court Administrator.
4. The work group should have a specific objective or goal,

5. Should have a specified deadline for completion of project,

What questions are revealed by this report?

This report reveals that courts that have consolidated or centralized experience positive results and they whole-heartedly recommend consolidation to other courts. Why haven't more courts consolidated? Are the points made in "Why Courts Don't Consolidate?" valid, or do they only tell a portion of the story? Is the barrier more related to personnel issues and fear and reluctance to change? Is the lack of a clearly defined circuit court administrative structure causing courts to hesitate? Do courts need a clearer procedure to accomplish consolidation? Is it because court staff and judicial staff are uninformed about the principles of consolidation? What changes need to be made to the court system to cause courts to change to consolidation? Does state funding encourage or discourage courts to consolidate? Would forced consolidation be desirable over voluntary consolidation? What are the benefits and consequences of voluntary consolidation? What are the benefits and consequences of forced consolidation? Perhaps a survey of the courts that have not consolidated or centralized should be conducted.

Another area of investigation might be to survey the public and bar and compare the level of performance of a court before and after consolidation. The Trial Court Performance Standards should be used as a mechanism for conducting the survey.

APPENDIX A

JUDICIAL CASELOAD

Judicial Caseload for Fiscal Year 1999

| | | |
|-------------------|----------------|---------------------------------|
| Supreme Court: | Filed: 799 | Disposed: 818 |
| Court of Appeals: | Filed: 16,356 | Disposed: 16,120 |
| Circuit Courts: | | |
| Civil: | Filed: 274,145 | Disposed: 264,265 |
| Criminal | Filed: 642,582 | Disposed: 625,407 |
| Juvenile | Filed: 33,261 | Disposed: 31,918 |
| Probate: | Filed: 12,998 | Disposed: 11,593 |
| Total | Filed: 962,986 | Disposed: 933,183 ⁴⁹ |

⁴⁹ Missouri Judicial Report, Missouri Judicial Department Organizational Summary, Fiscal Year 1999

APPENDIX B

LIST OF CENTRALIZED FILING COURTS

Donald B. Williams, Circuit Clerk
Camden County Circuit Court
P.O. Box 930
Camdenton, MO 65020

Rita Fuller, Circuit Clerk
Clay County Circuit Court
P.O. Box 218
Liberty, MO 64068

Jaci Mairs, Court Administrator
Jackson County Circuit Court
415 East 12th ST
Kansas City, MO 64106

Lynn A. Stowe, Circuit Clerk
Laclede County Circuit Court
200 North Adams ST
Lebanon, MO 65536

Sandy Dowd, Circuit Clerk
Platte County Circuit Court
328 South Main
Platte City, MO 64079

Rachelle K. Beasley, Circuit Clerk
Pulaski County Circuit Court
202 Courthouse
301 Historic Route 66 East
Waynesville, MO 65583

Joan Gilmer, Circuit Clerk
St. Louis County Circuit Court
County Courts Building
7900 Carondelet AVE
Clayton, MO 63105

Mariano Favazza, Circuit Clerk
St. Louis City Circuit Court
Civil Courts Building
10 North Tucker BLVD
St. Louis, MO 63101

APPENDIX C

LIST OF CONSOLIDATED COURTS

Jerry A. Moyer, Circuit Clerk
Barton County Circuit Court
1007 Broadway
Lamar, MO 64759

Cheryl Schultz, Circuit Clerk
Benton County Circuit Court
P.O. Box 37
Warsaw, MO 65355

Cheryl Whitmarsh, Circuit Clerk
Boone County Circuit Court
705 East Walnut ST
Columbia, MO 65201

Irene Mooney, Circuit Clerk
Buchanan County Circuit Court
411 Jules ST, Courthouse
St. Joseph, MO 64501

Susan Johnston, Circuit Clerk
Callaway County Circuit Court
10 East 5th ST
Fulton, MO 65251

Melinda Gumm, Circuit Clerk
Cedar County Courthouse
P.O. Box 665
Stockton, MO 65785

Brenda Adams, Circuit Clerk
Dade County Circuit Court
300 West Water ST
Greenfield, MO 65661

C. Sherece Eivins, Circuit Clerk
Harrison County Circuit Court
P.O. Box 189
Bethany, MO 64424

Howard Wagner, Circuit Clerk
Jefferson County Circuit Court

P.O. Box 100
Hillsboro, MO 63050

Gene Hall, Circuit Clerk
McDonald County Circuit Court
P.O. Box 157
Pineville, MO 64856

Karen Turley, Circuit Clerk
Mississippi County Circuit Court
P.O. Box 369
Charleston, MO 63834

Carol Gaddy, Circuit Clerk
Phelps County Circuit Court
200 North Main ST
Rolla, MO 65401

James O. Naylor, Jr. Circuit Clerk
St. Clair County Circuit Court
P.O. Box 493
Osceola, MO 64776

John Morehead, Circuit Clerk
Sullivan County Circuit Court
101 East 3rd ST
Milan, MO 63556

Phyllis Staley, Circuit Clerk
Texas County Circuit Court
P.O. Box 237
Houston, MO 65483

Vickie Erwin, Circuit Clerk
Vernon County Circuit Court
100 West Cherry
Nevada, MO 64772

APPENDIX D

LIST OF COURTS THAT PLAN TO CONSOLIDATE

Linda L. Roark, Circuit Clerk
Cole County Circuit Court
301 East High St,
P.O. Box 1156
Jefferson City, MO 65101

Linda Williams, Circuit Clerk
Jasper County Circuit Court
6th – Pearl,
Joplin, MO 64801

E. Elaine Clough, Circuit Clerk
Linn County Circuit Court
108 North High ST
P.O. Box 84
Linneus, MO 64653

Linda Duncan, Circuit Clerk
Miller County Circuit Court
P.O. Box 11
Tuscumbia, MO 65082

APPENDIX F QUESTIONNAIRE

Definitions

Consolidated court: A court organization of all divisions of the circuit court in a county; directed by a single person; with all non-statutory staff under a single appointing authority; with a single budget; controlling all financial accounting records and funds; with a single location to access most of the court case records,

Centralized Filing court: A court organization of most of the divisions of the circuit court in a county; controlled by a single person; with most of the non-statutory staff under a single appointing authority; with most of the courts budget in a single budget; controlling most of the financial accounting records and funds; with a single location to access most of the court case records,

In comparison between prior to and after your county consolidated or centralized, does your court now?

Court Staff

1. Is there increased flexibility to allocate personnel to areas of greater need? Yes
No
2. Are there opportunities to develop specialized or expert staff? Yes
No
3. Are there cross training of personnel to cover work areas while staff is gone due to sickness or annual leave? Yes No

Financial Records

1. Were you able to provide more safeguards by segregating financial duties between staff? Yes No
2. Were you able to reduce the number of bank accounts? Yes
No

Court System: When divisions were eliminated and staff became apart of the same system:

1. Was there a reduction in conflict and confusion between staff? Yes
No
2. Was there an improvement in communication within the court? Yes
No
3. Was there improvement in cooperation within the court? Yes
No
4. Were there any time savings due to court records and indexes being combined? Yes
No
5. Are statewide personnel policies more uniformly applied to court staff? Yes
No

Public Access to Justice

1. Does the public have a ONE-STOP location to access court information? Yes
No
2. Does the public have a ONE STOP phone number to access court information? Yes
No
3. Does the public have improved physical access to the court? Yes
No
4. Has there been a reduction in the misfiling of pleadings by attorneys? Yes
No
5. Have the public trust and confidence in the court system improved? Yes
No

Cost Benefits

1. Was greater "interest income" realized by combining bank accounts/funds? Yes
No
2. Were bank service charges reduced or eliminated? Yes
No
3. Were increased services gained from the bank due to a larger bank account balance? Yes
No
4. Were you able to purchase supplies in larger quantities and save money? Yes
No
If yes, how much money was saved? _____
5. When ordering printed forms, were you able to reduce waste by ordering more usable amounts?
If yes, how much money was saved? _____ Yes
No

Equipment Savings:

1. Were savings realized by not purchasing duplicate equipment? Yes
No
2. Were savings realized by utilizing computers, photocopy machines and other equipment more completely? Yes
No
3. Was floor space and facilities more efficiently utilized? Yes
No

Procedures:

1. Were office procedures eliminated or simplified? Yes
No
2. Were case management procedures eliminated or simplified? Yes
No
3. Was there an increase in compliance with time schedules by the court? Yes
No
4. Were there improvements in adhering to laws, procedures and policies? Yes
No
5. Were there improvements in the timeliness of case processing? Yes
No

Judges:

1. Has the judicial staff been able to give more attention and time to adjudication of cases?
Yes No
2. Has the judicial staff been able to expeditiously conduct adjudication of cases? Yes
No

In your county:

Effective date of consolidation or centralization: _____ County: _____

Is your court consolidated or centralized filing? _____

Number of judges and/or commissioners in your court? _____

Who is responsible for preparing the court budget for the county? _____

Is there more than one appointing authority in the county? Yes No

Who are the appointing authorities in the county? _____

Is there more than one trustee of court funds in the county? Yes No

Who are the trustee's of court funds? _____

What problems related to court consolidation or centralized filing has occurred?

Personnel

Describe

—
Intervention by judges into management decisions

Describe

—
Confusion about the division of responsibility between judges and court clerk

Describe

—
Court clerk not included in decision making

Describe

—
Judicial demands for use of court staff for activities not connected to administration of justice

Describe

—
Greater need for training of court clerk and management staff

Describe

Other problems

Describe

1. If given the choice, would you change back to the prior court structure? Yes
No
2. Would you recommend consolidation and centralized filing to other courts? Yes
No
3. Which court structure do you think is better? (circle) Consolidation or Centralized Filing



Jerry A. Moyer

Barton County Circuit Clerk

Courthouse
1007 Broadway Lamar, Missouri 64759-1498



Tel. 417-682-2444
Fax 417-682-2960

APPENDIX G

June 18, 2001

Greetings:

In the past 25 years the Judiciary of Missouri has undergone significant changes. Court consolidation and centralized filing is one of those changes. I am seeking to evaluate the success or lack thereof, of consolidation and centralized filing courts. What is good about these forms of court organization? What problems have occurred in courts that have consolidation and centralized filing? Do you have any suggestions for making the change to consolidation or centralized filing easier for other courts?

I am participating in the Court Executive Development Program of the National Center for State Courts. The CEDP is a nationally recognized court leadership development and training program, which encompasses four phases. The phase that I am currently working on is Phase III which is to prepare a written evaluation of a topic that is directly related to the court. The topic that I have chosen is court consolidation and centralized filing. I am writing a research report on this topic and will be submitting it to the National Center to complete Phase III. This report will be placed in the National Center for State Courts library and will be available as a resource to anyone interested in court consolidation. The report will also be placed in the library at OSCA and distributed to interested persons in the judiciary.

Enclosed is a questionnaire that I am sending the courts that are consolidated or centralized. **It is my desire that the questionnaire be completed and returned to me by October 23, 2000.** The questionnaire should be completed by a court staff person who has knowledge of the court prior to the change as well as current court structure. Usually this is the Circuit Clerk, but may be someone else who has been with the court for a long time. Please take 10 minutes to complete the questionnaire and return it to me in the enclosed envelope. I will share the results with everyone, which completes and returns the questionnaire.

Thank you for taking the time out of your busy schedule to complete the questionnaire. If you have any questions, please feel free to contact me at (417) 682-2444 or e-mail me at (jerry_moyer@osca.state.mo.us).

Very truly yours

Jerry A. Moyer

APPENDIX I

SURVEY RESULTS

Court Staff:

2. Is there increased flexibility to allocate personnel to areas of greater need?

| | | |
|---------------|---------------|------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 16 (94%) | No: 1 (6%) |

2. Are there opportunities to develop specialized or expert staff?

| | | |
|---------------|---------------|------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 16 (94%) | No: 1 (6%) |

3. Are there cross training of personnel to cover work areas while staff is gone due to sickness or annual leave?

| | | |
|---------------|---------------|------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 16 (94%) | No: 1 (6%) |

Financial Records:

1. Were you able to provide more safeguards by segregating financial duties between staff?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 11 (79%) | No: 3 (21%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 14 (82%) | No: 3 (18%) |

2. Were you able to reduce the number of bank accounts?

| | | |
|---------------|----------------|-------------|
| Consolidated: | Yes: 10 (71 %) | No: 4 (29%) |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) |
| Total: | Yes: 12 (71%) | No: 5 (29%) |

Court System:

1. Was there a reduction in conflict and confusion between staff ?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 12 (86%) | No: 2 (14%) | |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) | No answer: 1 |
| Total: | Yes: 14 (88%) | No: 2 (22%) | |

Comments: *"It took awhile!" "After a period of time." "In the long run."*

2. Was there an improvement in communication within the court?

| | | | |
|---------------|---------------|------------|--------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) | |
| Centralized: | Yes: 2 (66%) | No: 0 | No answer: 1 |
| Total: | Yes: 15 (94%) | No: 1 (6%) | |

3. Was there improvement in cooperation within the court?

| | | | |
|---------------|----------------|-------|--------------|
| Consolidated: | Yes: 12 (100%) | No: 0 | No answer: 2 |
| Centralized: | Yes: 2 (100%) | No: 0 | No answer: 1 |

Total: Yes: 14 (100%) No: 0

4. Were there any timesavings due to court records and indexes being combined?

| | | | |
|---------------|---------------|------------|--------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) | |
| Centralized: | Yes: 2 (100%) | No: 0 | No answer: 1 |
| Total: | Yes: 15 (94%) | No: 1 (6%) | |

5. Are statewide personnel policies more uniformly applied to court staff?

| | | | |
|---------------|---------------|------------|--------------|
| Consolidated: | Yes: 12 (92%) | No: 1 (8%) | No answer: 1 |
| Centralized: | Yes: 2 (100%) | No: 0 | No answer: 1 |
| Total: | Yes: 14 (93%) | No: 1 (7%) | |

Public Access To Justice:

1. Does the public have a ONE-STOP location to access court information?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 11 (79%) | No: 3 (21%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 14 (82%) | No: 3 (18%) |

2. Does the public have a ONE-STOP phone number to access court information?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 12 (86%) | No: 2 (14%) |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) |
| Total: | Yes: 14 (82%) | No: 3 (18%) |

3. Does the public have improved physical access to the court?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 9 (64%) | No: 5 (36%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 12 (71%) | No: 5 (29%) |

4. Has there been a reduction in the misfiling of pleadings by attorneys?

| | | |
|---------------|---------------|------------|
| Consolidated: | Yes: 13 (93%) | No: 1 (7%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 16 (94%) | No: 1 (6%) |

5. Have the public trust and confidence in the court system improved?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (83%) | No: 2 (17%) | No answer: 2 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 13 (87%) | No: 2 (13%) | |

Cost Benefits:

1. Was greater "interest income" realized by combining bank accounts/funds?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 8 (73%) | No: 3 (27%) | No answer: 3 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 11 (79%) | No: 3 (21%) | |

2. Were bank service charges reduced or eliminated?

| | | | |
|---------------|--------------|-------------|--------------|
| Consolidated: | Yes: 9 (69%) | No: 4 (31%) | No answer: 1 |
|---------------|--------------|-------------|--------------|

| | | |
|--------------|---------------|-------------|
| Centralized: | Yes: 2 (66%) | No: 1 (33%) |
| Total: | Yes: 11 (69%) | No: 5 (31%) |

3. Were increased services gained from the bank due to a larger bank account balance?

| | | | |
|---------------|--------------|-------------|--------------|
| Consolidated: | Yes: 5 (38%) | No: 8 (62%) | No answer: 1 |
| Centralized: | Yes: 2 (66%) | No: 8 (62%) | |
| Total: | Yes: 7 (44%) | No: 9 (56%) | |

4. Were you able to purchase supplies in larger quantities and save money?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (77%) | No: 3 (23%) | No answer: 1 |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) | |
| Total: | Yes: 12 (75%) | No: 4 (25%) | |

If yes, how much money was saved? *25% to 40%; thousands, approximately \$5000,*

5. When ordering printed forms, were you able to reduce waste by ordering more usable amounts?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (77%) | No: 3 (23%) | No answer: 1 |
| Centralized: | Yes: 1 (33%) | No: 1 (33%) | No answer: 1 |
| Total: | Yes: 11 (73%) | No: 4 (27%) | |

If yes, how much money was saved? *25% to 40%; thousands; \$400 per year; approximately \$5000,*

Equipment Savings:

1. Were savings realized by not purchasing duplicate equipment?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (77%) | No: 3 (23%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 13 (81%) | No: 3 (19%) | |

2. Were savings realized by utilizing computers, photocopy machines and other equipment more completely?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 11 (85%) | No: 2 (15%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 14 (88%) | No: 2 (18%) | |

3. Was floor space and facilities more efficiently utilized?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 12 (86%) | No: 2 (14%) |
| Centralized: | Yes: 3 (100%) | No: 0 |
| Total: | Yes: 15 (88%) | No: 2 (18%) |

Procedures:

1. Were office procedures eliminated or simplified?

| | | | |
|---------------|---------------|------------|--------------|
| Consolidated: | Yes: 12 (92%) | No: 1 (8%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 15 (94%) | No: 1 (6%) | |

2. Were case management procedures eliminated or simplified?

| | | | |
|---------------|---------------|------------|--------------|
| Consolidated: | Yes: 12 (92%) | No: 1 (8%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 15 (94%) | No: 1 (6%) | |

3. Was there an increase in compliance with time schedules by the court?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 8 (62%) | No: 5 (38%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 11 (69%) | No: 5 (31%) | |

4. Were there improvements in adhering to laws, procedures and policies?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (77%) | No: 3 (23%) | No answer: 1 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 13 (81%) | No: 3 (19%) | |

5. Were there improvements in the timeliness of case processing?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 10 (83%) | No: 2 (17%) | No answer: 2 |
| Centralized: | Yes: 3 (100%) | No: 0 | |
| Total: | Yes: 13 (87%) | No: 2 (13%) | |

Judges:

1. Has the judicial staff been able to give more attention and time to adjudication of cases?

| | | | |
|---------------|---------------|-------------|--------------|
| Consolidated: | Yes: 9 (82%) | No: 2 (18%) | No answer: 3 |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) | |
| Total: | Yes: 11 (79%) | No: 3 (21%) | |

2. Has judicial staff been able to expeditiously conduct adjudication of cases?

| | | |
|---------------|---------------|-------------|
| Consolidated: | Yes: 8 (73%) | No: 3 (27%) |
| Centralized: | Yes: 2 (66%) | No: 1 (33%) |
| Total: | Yes: 10 (71%) | No: 4 (29%) |

In your county:

Who is responsible for preparing the court budget for the county?

Consolidated:

Circuit Clerk: 11,
Presiding Judge: 2,
Associate Circuit Judge: 1

Centralized:

Circuit Clerk: 2
Presiding Judge, Circuit Clerk and Probate Judge: 1

Is there more than one appointing authority in the county?

| | | | |
|---------------|--------|--------|--------------|
| Consolidated: | Yes: 2 | No: 12 | No answer: 3 |
| Centralized: | Yes: 2 | No: 1 | |
| Total: | Yes: 4 | No: 13 | |

Who are the appointing authorities in the county?

Consolidated:

Circuit Clerk: 11

Probate Judge: 1

Presiding Judge: 1

Associate Circuit Judge: 1

Centralized:

Presiding Judge and Circuit Clerk: 2

Circuit Clerk: 1

Is there more than one trustee of court funds in the county?

Consolidated: Yes: 0

No: 11

No answer: 3

Centralized: Yes: 0

No: 3

Total: Yes: 0

No: 14

Who are the trustee's of court funds?

Consolidated:

Circuit Clerk: 14

Centralized:

Presiding Judge and Circuit Clerk: 1

Circuit Clerk: 1

No answer: 1

What problems related to court consolidation or centralized filing has occurred?

Personnel:

Consolidated:

We have a new facility. Security was a problem for 18 months or so, it has since been worked out.

Ascribing to change. Relating the vision that the change would not be easy in the beginning, but the long-range benefits would be worth the inconvenience.

Took about 6-8 months for staff to adjust to Circuit Clerk as boss not judge.

Fear of job security, fear of increase of job responsibilities, new management, fear of incompatibility.

Have not had any problems with personnel-transition was very smooth.

Greatest thing to overcome and still sometimes is the relationship of judges and clerks who work closely together-sometimes reminders have to be made as to who the boss is and put it bluntly!

One clerk was not happy with consolidation, but this has improved over time.

We encountered no problems with personnel.

The tendency is to think in terms of "the Associate office does this" and "the Circuit office does that". It takes time to overcome this and think of your selves as one office.

Confusion among court staff as to responsibilities and learning areas unfamiliar to them in the beginning of consolidation.

Centralized Courts:

It was an adjustment at first, but the personnel got along fine and accepted the change and moved forward.

Just normal adjustment to larger office.

Intervention by judges into management decisions:

Consolidated:

Micro managers.

Probate Judge retaining jurisdiction over personnel in a consolidated system.

Simplified since Circuit Clerk is only appointing authority.

Deputy clerks were placed under the appointing authority of the Circuit Clerk at the time of consolidation.

Some reluctance mostly wants to be included in decisions that would effect him.

None-I always listen to suggestions but have always made the final decision without interference by judges.

Circuit Clerk does discuss management decisions with Associate Circuit Judge.

Our judges have all been very supportive and have worked with us very well.

Our judges do not intervene, but they are always glad to assist me in making a decision if I ask their advice. The associate judges were happy to turn over management of the associate personnel to me.

None that I am aware of – Circuit Clerk discusses with judges all changes in procedures, etc. and holds staff meeting with court staff regularly.

Centralized Courts:

The Circuit Court En Banc met and any decisions that were made were agreed upon by all including the Circuit Clerk.

Confusion about the division of responsibility between judges and court clerks:

Consolidated:

Each judge handles their own division.

Budgeting challenges among clerk and both associate division judges.

None, judge was eager to give up personnel issues.

Communication was clear in the fact the Circuit Clerk would be the appointing authority for all deputy clerks. The Presiding Judge is the appointing authority for his secretary and the court administrator.

Did not seem to be any confusion.

I don't feel that there is confusion about responsibilities between judge and clerk.

Very little difficulty.

Centralized:

There was minor confusion until we all learned what responsibilities were.

Court clerk not included in decision making:

Consolidated:

Court En Banc.

I communicate with my judges when I am replacing a mid-management position (i.e. a new division clerk). Keeping the judges informed is very important, so they do not feel excluded.

Does not seem to be a problem.

Absolutely not - both I and my fellow circuit clerks from other counties in our circuit are invited to monthly court en banc meetings.

Centralized:

Only the Judges and the Circuit Clerk were involved in any decision make that needed to be done.

Judicial demands for use of court staff for activities no connected to administration of justice:

Consolidated:

Each judge uses their clerk as secretary for all needs.

Often times my office is asked to assist in areas where there is a shortage of personnel. I think because the bulk of employees are under my appointing authority.

Not a problem.

Judges expecting court clerks to do work of a private secretary, community events, transcribing, etc...

Greater need for training of court clerk and management staff:

Consolidated:

I am a strong advocate of cross training within all divisions. Using personnel resources and thorough cross training is a must to recognize the benefits of being consolidated.

With the constant changes the continued education program with the state is a must!

We have done much cross training between functions.

At this time more management training might be a plus, but not enough time at present to leave office.

We have been able to take part in more training opportunities because of staff efficiently.

The job descriptions pretty much remained the same, so the staff did not need any additional training. I was still fairly new as the appointing authority and since I went from 5 deputies to 12 deputies, I could have used more training for myself.

Training has greatly improved due to Banner and more training opportunities offered thru the state.

Centralized:

These needs were handled when the cross training started which helped a great deal.

Satisfactory at this time. Just not enough time to take advantage of what is offered.

Other problems:

Consolidated:

Consolidated courts loose the Associate Division clerk. Circuit Clerk becomes appointing authority for both circuit and associate division. Takes time to adjust!

Judges takes control of staff when everything is running well. If mistakes are made, judges have no control of staff.

It is hard to divide the workload appropriately.

Would highly recommend the transition. As long as everyone agrees to work together it can be a great asset to the counties.

Reorganization of people and duties – who to place where – a couple of time it was a trial and error thing.

The main problem I have with my location is, I am on the 3rd floor and the only way to get to my offices is up 2 flights of stairs.

Turnover in court staff until new staff is properly trained may cause more work temporarily for existing staff.

Suggestions to other courts considering consolidation or centralized filing:

Consolidated:

Having an in depth understanding of both definitions by all parties. Upon agreement, put your plan in writing and have all party's sign off.

Do it ASAP. Simplifies everything. It's hard to remember we haven't always been consolidated!

For more than 20 years our court was centralized with 36+ employees. The Probate Division was the only division separate. Since the consolidation of probate, the addition of 4 new employees, we are much more unified. Prior to consolidation, the probate staff we left out of the loop for communication (i.e. the probate clerk was not included in my supervisor staff meetings to learn of new policies, training programs, etc.) Under the consolidation structure, the communication is much better.

Take it easy – be patient – evaluate existing personnel and their capabilities – fit people together, who can work closely together well – don't expect perfection from day one – be willing to “bend” along the way.

Consolidation may not be for all counties. It depends on their size and their circumstance.

Educate the local bar and public. Attend team building training. Get all staff into the same physical location if possible.

If at all possible you should be physically located in one office. Communication before, during and after the change to consolidation is very important. People need to know what is going on. This is not easy, especially when you are not located together. We changed over to open shelf filing and have found this to be a very good system.

Consolidation makes the court more efficient in handling cases thru the general public eye. Time is saved, work continues if a clerk is gone, communication and a plan are vital for consolidation to work.

Centralized:

I would suggest that job duties be assigned to all staff before the change is made so that the staff stays focused. By being centralized, this has helped the public and the attorneys save time and money.

Follow up questions

4. If given the choice, would you change back to the prior court structure?

Consolidated: Yes: 2 (14%) No: 12 (86%)

Centralized: Yes: 0 No: 3 (100%)

Total: Yes: 2 (12%) No: 15 (88%)

5. Would you recommend consolidation and centralized filing to other courts?

Consolidated: Yes: 13 (100%) No: 0 No answer: 1

Centralized: Yes: 3 (100%) No: 0

Total: Yes: 16 (100%) No: 0

6. Which court structure do you think is better?

Consolidated: Consolidation: 9 (100%) Centralized Filing: 0 No answer: 5

Centralized: Consolidation: 2 (100%) Centralized Filing: 0 No answer: 1

Total: Consolidation: 11 (100%) Centralized Filing: 0

Comments:

Only have information and knowledge as to consolidated courts.

Depends on the individual court and if the judges are willing to give up personnel authority to the appointing authority.

DEFINITIONS

Adjudication: A judge holding a hearing or trial and the formal giving or pronouncing of a judgment or decree in a cause.

Bar: The whole body of attorneys and counsellors, or the members of the legal profession, collectively.

Bench: A group of judges taken collectively, or aggregate of the judges composing a court.

Caseflow Management: The monitoring of cases from filing to disposition, and using strategies for controlling the length of time taken for a case to be processed by the court.

Case Processing Time Standards: A standard of time periods, used for comparison for measuring the length of time taken for cases from filing to disposition, established by the Supreme Court. See Court Operating Rule 17.

Centralized filing court: A court organization with most of the divisions of the circuit court in a county directed by a single person. With most of the non-statutory staff under a single appointing authority; with most of the court budget in a single budget; and controlling most of the financial accounting records and funds. A single location to access most of the court case records.

Collegiality: A body of persons having common interests or duties, with each member having equal power or authority.

Consolidated Court: A court organization of all divisions of the circuit court in a county directed by a single person. With all non-statutory staff under a single appointing authority; with a single budget; controlling all financial accounting records and funds. A single location to access most of the court case records.

Court En banc: An administrative body of all the judges of a court,

Court Staff: Employees of the court, not judges.

Judicial Staff: Judges of the court.

Limited Jurisdiction Court: A court with authority to hear cases of limited jurisdiction.

Trial Court: The court of original jurisdiction; the first court to consider litigation. A court that tries cases and renders a judgment. Used in contrast to appellate court.

Trial Court Performance Standards: A list of performance standards for general jurisdiction trial courts used as basis for cross-court comparisons and a measurement system to improve the delivery of service of the court to those who use the courts.

Unification of a court: Changing a court system which includes consolidating or merging of a state's trial courts; a centralized management of the judicial system at the state level; and statewide funding the judiciary.

